



Dispute over Customary Land of the Bodi Sapik Clan, Certified Without the Permission of the *Mamak Kapalo Waris* and Its Settlement in Jorong Baruah, Tanah Datar

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Article Info

Article History

Revised : 2024-11-19

Accepted : 2024-12-28

Published : 2024-12-30

Keywords:

Communal Land;
Dispute Resolution;
Land Registration

Abstract

Land disputes arise from conflicts of interest over land. Communal customary land is one type of land that is often disputed. One such dispute over communal customary land belonging to the Bodi Sapik clan occurred in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency. In this case, the communal customary land was certified without the permission of the head heir. West Sumatra Regional Regulation No. 7 of 2023 on Communal Customary Land states that the head heir is the leader of the communal customary land. Furthermore, Article 13 stipulates that the management and utilization of communal customary land is carried out by the head heir based on consensus with the clan members. Therefore, a study is needed with the following research questions: 1) Why did the defendant not seek prior permission from the head heir before certifying the Bodi Sapik clan's communal customary land? 2) How was the certification process of the Bodi Sapik clan's communal customary land carried out without the permission of the head heir in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency? 3) How was the dispute over the certification of the Bodi Sapik clan's communal customary land, which was carried out without the permission of the head heir in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, resolved? This research uses an empirical juridical method with qualitative analysis. Based on the analysis and discussion, the results of this study show that the reason the defendant did not seek permission from the head heir when certifying the Bodi Sapik clan's communal customary land was because it was not the defendant who registered or certified the communal customary land, but rather the defendant's older brother, Jhond Kennedy, and because the defendant had not yet received his share of the inheritance and was trying to protect the inherited property. Meanwhile, the certification process of the Bodi Sapik clan's communal customary land in Jorong Baruah, Nagari Padang Magek, was carried out in 2000 when the defendant's older brother was the village head and there was a National Agrarian Operation Project (Prona) which authorized village governments to issue land ownership certificates (sporadik). This sporadik was used as the basis for land registration (issuance of a communal customary land certificate) at the Tanah Datar Regency Land Agency office. Furthermore, the dispute over the Bodi Sapik clan's communal customary land was resolved through negotiation, followed by mediation at the Tanah Datar Police Station, Batusangkar District Court, and finally at the Padang State Administrative Court.

INTRODUCTION

Indonesia is a nation that utilizes its abundant diversity of cultures and ethnic groups, and also has a unique state system. One crucial aspect of this system is the role of customary norms. Customary norms refer to the regulations and customs that develop within a particular customary community or ethnic group. Indonesia is a country with a society that highly values customary traditions. Indonesian society consists of various ethnic groups, religions, races, and

customs that are different but remain united under the motto "Bhinneka Tunggal Ika". This is as stated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states: "The state recognizes and respects customary law communities and their traditional rights as long as they still exist and are in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law".

Furthermore, Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that, "Cultural identity and the rights of traditional communities are respected in line with the development of the times and civilization".

Every nation in the world has different customs. Customs are a reflection of a nation's personality and indirectly give an identity to a nation, including Indonesia, which has a diversity of tribes and customs that distinguish one region from another. This diversity is a valuable asset for the Indonesian nation, and from this diversity, different customary rules have emerged from one region to another, which, although unwritten, are still recognized today.

Minangkabau society is one example of an indigenous community in Indonesia that is famous for the patterns and uniqueness of its laws. Minangkabau society lives in a strong customary social order with various customary devices that have their own functions in the development of Minangkabau customs.

Irene Mariane provides an explanation of traditional rights as follows: "Rights that are created by, for, and of the community within the scope and limits of the life of the community concerned as a legacy from their ancestors to maintain life naturally and sustainably. The principles contained in these traditional rights are the right to maintain life, both biologically, socially, culturally, and in terms of the beliefs they hold. In further developments, it is very possible that some of their rights have been elevated into the written norms of legislation set by the state, and it is even possible that the state's recognition and respect for these traditional rights will be further expanded and improved. However, regardless of whether or not the state recognizes and respects the traditional rights of indigenous peoples, the existence of the traditional rights of indigenous peoples will never be erased as long as the community and its natural and territorial environment where they live and develop still exist."¹

Bagir Manan also provides a concrete example of traditional rights, namely "the right to ulayat and the rights to obtain benefits or enjoyment from land and water or forest products in the surrounding area. According to Boedi Harsono, the right to ulayat is as follows: "The name given by legal experts to the legal institution and concrete legal relationship between customary law communities and land in their territory, with the formulation that the right to ulayat is the right of a customary law community to the land environment of its territory which gives certain authority to the customary ruler to regulate and lead the use of the community's land territory. In addition, the right to ulayat is also interpreted as jointly owned land that is believed to be a gift from a supernatural power or a legacy from ancestors to a group or customary law community."²

Furthermore, recognition of the right to ulayat is also stated in Article 3 of Law Number 5 of 1960 concerning the Basic Principles of Agrarian Affairs (UUPA) which states: "Taking into account the provisions in Articles 1 and 2, the implementation of ulayat rights and similar rights of customary law communities, as long as they actually still exist, must be in such a way that it is in accordance with the national and state interests, which are based on national unity¹ and may not contradict higher laws and regulations.

¹ Irene Mariane, 2014, **Local Wisdom in Customary Law Management**, Jakarta, PT. Raja Grafindo Persada, pp. 78-79.

² Boedi Harsono, 2003, **Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Its Content and Implementation**, Jakarta, PT. Djambatan, p. 8.

"According to Article 9 of West Sumatra Regional Regulation Number 7 of 2023 concerning Communal Customary Land, it is stated that communal customary land is owned by all members of the clan, led by a Head Heir. This communal customary land is cultivated land whose control is based on the principle of 'ganggam bauntuak pagang bamasiang' for clan members. Furthermore, Article 13 also explains that the management and utilization of Communal Customary Land is carried out by the Head Heir based on consensus with the clan members.

Therefore, the management and utilization of Communal Customary Land is carried out by the Head Heir based on consensus with the clan members. Based on the case obtained by the researcher in the case of Communal Customary Land in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency. This Communal Customary Land dispute involves the Communal Customary Land of the Bodi Jantan/Bodi Sapik clan. The object of the dispute is a 900 square meter plot of land called Sawah Sungai Ladang. The Plaintiff is Damanhuri (Dt. Biri Dirajo) while the Defendants are Tisra Juwita and Hasni Wirda, who are siblings. The Plaintiff and Defendants are related as they are cousins.

This Communal Customary Land was certified by Jhond Kennedy Dt. Janguik Bin Juslami Alm (the Defendants' older brother) in 2000. At that time, the Defendants' older brother was the Village Head of Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency. In 2000, the Head Heir of the Bodi Jantan/Bodi Sapik clan was Binulabai Mangkuto.

The dispute began when Damanhuri (Dt. Biri Dirajo) wanted to process the land certificate at the Tanah Datar Regency National Land Agency (BPN) office. After the application was submitted to the Tanah Datar Regency National Land Agency, on September 9th around 2:00 PM, the BPN contacted Zul Hanif Pgl. Zul (the Plaintiff's son-in-law) stating that the land to be certified already had a certificate in the name of Tisra Juita and Hasni Wirda.

Based on the aforementioned points, the author is interested in conducting a research on the process of resolving high inheritance disputes in Jorong Baruah, Nagari Padang Magek, Rambatan District, Tanah Datar,

RESEARCH METHOD

This research employs an empirical legal approach, centering on direct observation of legal practices within society. As a descriptive legal study, it aims to provide an accurate portrayal of the legal phenomena occurring. Data analysis is conducted qualitatively, involving in-depth interpretation of collected legal materials.

DISCUSSION

Reasons Why the Defendant Did Not Seek Permission from the Head Heir When Making a Certificate for the Communal Customary Land of the Bodi Sapik Clan in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency

Article 19 paragraph (2) letter c of Law Number 5 of 1960 concerning the Basic Provisions of Agrarian Affairs (UUPA) states that land certification is the issuance of certificates of title, which serve as strong evidence.

Land certification or registration is regulated in Government Regulation Number 24 of 1997 concerning Land Registration. Article 1 paragraph 1 states that land registration is a series of activities carried out continuously, consistently, and systematically by the Government, including the collection, processing, recording, and presentation and maintenance of physical and legal data, in the form of maps and lists, concerning land parcels and units of apartment buildings, including the issuance of certificates of title for land parcels that already have rights and ownership rights over apartment units and certain encumbrances thereon.

Land registration is organized by the National Land Agency. Article 11 of Government Regulation Number 24 of 1997 concerning Land Registration states that the implementation of

land registration includes activities for the initial registration of land and the maintenance of land registration data. Furthermore, Article 13 states that the initial registration of land is carried out through systematic land registration and sporadic land registration.

This systematic land registration is based on a work plan and is carried out in areas designated by the Minister. The activities of systematic land registration begin with the creation of a basic registration map. For the purpose of creating a basic land registration map, the National Land Agency carries out the marketing, measurement, mapping, and maintenance of national technical base points in each Regency/Municipality. Furthermore, the basic registration map becomes the basis for creating a registration map. Meanwhile, sporadic land registration is carried out at the request of interested parties, namely by the landowner themselves.

In the case of the Bodi Sapik Clan's Communal Customary Land dispute in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, the disputed land is part of the Communal Customary Land of the Bodi Jantan/Bodi Sapik clan. The specific object of the dispute is a 900 square meter plot of land known as Sawah Sungai Ladang. The plaintiff is Damanhuri (Dt. Biri Dirajo), while the defendants are Tisra Juwita and Hasni Wirda, who are siblings. The plaintiff and defendants are related as members of the same clan, being cousins.

The Bodi Sapik Clan's Communal Customary Land was certified by Jhond Kennedy Dt. Janguik Bin Juslami Alm (the defendants' older brother) in 2000. At that time, the defendants' older brother was the Village Head of Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency. In 2000, Binulabai Mangkuto was the Head Heir of the Bodi Jantan/Bodi Sapik clan.

The dispute began when Damanhuri (Dt. Biri Dirajo) tried to process the land certificate at the Tanah Datar Regency National Land Agency (BPN) office. After the application was submitted to the BPN, on September 9th around 2:00 PM, the BPN informed Zul Hanif Pgl. Zul (the plaintiff's son-in-law) that the land to be certified already had a certificate in the name of Tisra Juita and Hasni Wirda.

However, as previously explained, it was not the defendants themselves who had the Communal Customary Land in Jorong Baruah certified, but their older brother, Jhond Kennedy Dt. Janguik Bin Juslami Alm. The reason why Jhond Kennedy Dt. Janguik Bin Juslami Alm certified the Bodi Sapik Clan's Communal Customary Land without the permission of the Head Heir in Jorong Baruah, Nagari Padang Magek, was so that his younger sisters, Tisra Juita and Hasni Wirda, who are the defendants, could receive a portion of the inherited property, as they had not received their share.

The other two younger siblings of Jhond Kennedy had already received their share of the inherited land. The defendants' older brother had the land certified solely to build a house for the defendants and their family in the new village, and to preserve the ancestral property.³

Based on an interview with the defendant, Ms. Tisra Juwita, on Wednesday, November 6, 2024, around 10:00 AM, via telephone, the reason why the defendants did not seek permission from the Head Heir when certifying the Bodi Sapik Clan's Communal Customary Land in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, was because the defendants' older brother was afraid that everything would be inherited by his children, causing worry for their mother. However, after the certificate was issued, the Head Heir was informed.⁴

³ Batusangkar District Court Class II Decision Number 67/Pid.B/2021/PN. Bsk., p. 19.

⁴ Interview with the Defendant (Mrs. Tisra Juwita), November 6, 2024.

The Process of Certifying the Bodi Sapik Clan's Communal Customary Land Without Permission from the Head Heir in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency

Land certification is an activity conducted on unregistered land objects. This activity is divided into two types: systematic land registration, initiated by the government, and sporadic land registration, carried out independently by the landowner. Sporadic land registration can be done independently or with the assistance of a Public Notary (PPAT) in the area where the registered land is located. The following are the documents that must be completed to obtain a land certificate.⁵

- 1) Recommendation letter from the village head or subdistrict head regarding the land to be registered.
- 2) A letter confirming there is no dispute from the RT/RW/Village Head.
- 3) A request letter from the landowner to apply for certification, obtained from the local land office.
- 4) Power of attorney (if registration is done by someone else, such as a PPAT).
- 5) Identification of the landowner, such as a photocopy of the ID card and Family Card, a certificate of inheritance, and a birth certificate if the application is made by an heir.
- 6) Proof of the requested land rights, such as girik/petok/rincik or other supporting documents.
- 7) A statement letter confirming boundary markers have been installed.
- 8) Photocopy of the Property Tax Notification Letter (SPPT) and Temporary Receipt Letter (STTS) for the current year.

In the case encountered by the author, it was found that the customary land of the Bodi Sapik clan in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency includes a plot of land, specifically the Sungai Ladang rice field, with an area of 900 m² (nine hundred square meters), which was certified without the consent of the Mamak Kepala Waris (Head of the Heir Clan). This, of course, does not comply with the applicable laws and regulations in Indonesia.

Article 13 of the West Sumatra Regional Regulation No. 7 of 2023 on Customary Land states that the management and utilization of Customary Land are carried out by the Mamak Kepala Waris based on consensus within the clan. Therefore, if one of the clan members wishes to register a certificate for customary land, it must be approved by the Mamak Kepala Waris.

In this case, the Plaintiff is Damanhuri, also known as Dt. Bijo Dirajo Pgl., and the Defendants are Tisra Juwita and Hasni Wirda (from the Bodi Jantan clan). The certificate for the Customary Land of the Bodi Sapik clan in Jorong Baruah, Nagari Padang Magek, was issued in the names of the Defendants, Tisra Juwita and Hasni Wirda. However, it was not the Defendants who applied for the certification, but rather the Defendant's older brother, Jhond Kennedy Dt. Janguik Bin Juslami (deceased), who was from the Bodi Jantan/Bodi Sapik clan.

In 2000, Jhond Kennedy Dt. Janguik Bin Juslami (deceased), who was the head of Padang Magek Tengah village (now known as the Wali Jorong Guguak Baruah office), issued a land ownership certificate under the National Agrarian Operation Project (Prona), in accordance with the Ministry of Home Affairs Decree No. 189 of 1981 and the Ministry of Agrarian Affairs/Head of the National Land Agency Decree No. 4 of 1995, which aimed to convert state land to private ownership and recognize customary land rights.

Through the Prona program, the older brother of the Defendants, as the village head, had the responsibility to inform the community about the program and help those who wanted to register their land for certification. The village government issued a certificate confirming that the land was indeed owned by the applicant (sporadic), which became the basis for the issuance of the certificate by the National Land Agency of Tanah Datar Regency.

⁵ Alivia Putri Winata, *How to Create a Customary Land Certificate?*, <https://kfmap.asia/blog/bagaimanacara-membuat-sertifikat-tanah-adat/2934>, accessed on November 21, 2024, at 3:04 PM.

Thus, Jhond Kennedy Dt. Janguik Bin Juslami (deceased), the older brother of the Defendants, issued a Physical Land Control Certificate and a Land Ownership Certificate for the Customary Land of the Bodi Sapik clan, the Sungai Ladang rice field in Jorong Baruah, Nagari Padang Magek. The physical control certificate was issued in the name of the Defendants and signed by their older brother. As the village head, Jhond Kennedy Dt. Janguik had the authority to issue the Sporadic Ownership Certificate with the number 074/SK/PMT/2000.

Regarding the dispute over the Customary Land of the Sungai Ladang rice field in Jorong Baruah, Nagari Padang Magek, before 2009, the land was cultivated by the older brother of the Defendants. From 2009 until the present, it has been worked on by the Plaintiff, Damanhuri (Dt. Bijo). The origin of the Sungai Ladang rice field comes from the grandfather Daut Dt. Janguik, passed down to Lawi Dt. Janguik, then to Lutan Dt. Janguik, and eventually pawned to Halima (the mother of Damanhuri Dt. Bijo Dirajo).

Subsequently, Halima pawned the land to the neighbor of the Defendants, Maidarlis, and after four years, Halima pawned it again to her son, Damanhuri (Dt. Bijo Dirajo). Later, Damanhuri Dt. Bijo Dirajo pawned the land again to his son, Net. In 1999, the rice field returned to the hands of the older brother of the Defendants until 2009, when Damanhuri Dt. Bijo Dirajo learned that the rice field was certified in the name of the Defendants.

The relationship between Jhond Kennedy Dt. Janguik Bin Juslami (deceased), the older brother of the Defendants, and Damanhuri (Dt. Bijo) is that of cousins, with their Mamak Kepala Waris being Binulabai Mangkuto. The owner of the rice field is Damanhuri Dt. Bijo Dirajo himself, as stated in the Agia Baragia Certificate dated June 10, 1985. Binulabai Mangkuto was the Mamak Kepala Waris from the Bodi Jantan clan. However, according to Tisra Juwita (Defendant), in Minangkabau custom, there is no system of Agia Baragia. The contents of the certificate indicate a loan arrangement.

However, the validity of the certificate dated June 10, 1985, between Damanhuri and Binulabai Mangkuto is questionable, as at the time both the mother of the Defendants and Halima (the mother of the Plaintiff) were still alive, but their signatures are not on the certificate. Since the land belongs to them as the rightful heirs, they should have signed the certificate. The certificate dated June 10, 1985, was also reported to the Nagari Customary Council of Nagari Padang Magek and the police. However, for two years after the report, no action was taken by the Nagari Customary Council or the police.

After the issuance of the Physical Land Control Certificate, which became the basis for the issuance of the certificate at the National Land Agency, the application for certification of the Sungai Ladang rice field was submitted through the village head. The village head then examined the certificate, confirmed that the land belonged to the applicant, and ensured there were no disputes. It was then forwarded to the National Land Agency of Tanah Datar Regency. Since the village head was the one issuing the certificate, it was possible to proceed without the consent of the Mamak Kepala Waris. This shows that the older brother of the Defendants falsified the document.

This is because, in 2000, the authority to issue the Sporadic Ownership Certificate rested with the village head. As the village head, Jhond Kennedy Dt. Janguik not only issued the sporadic certificate, but also issued a clan head letter, a tribal head letter, and some signatures were forged. This led to the issuance of the certificate for the Customary Land, specifically the Sungai Ladang rice field, in the name of the Defendants. As a result, the legal status of the land changed, and the rights associated with the name on the certificate were created.

Thus, it can be concluded that based on the West Sumatra Regional Regulation No. 7 of 2023 on Customary Land, it is stated that the issuance of a certificate for Customary Land must be based on the permission of the Mamak Kepala Waris. In this case, the person who initiated the registration of the certificate for the Customary Land was the village head, who was

authorized at that time. At the time of the issuance of the certificate, Jhond Kennedy (the village head) was neither the Mamak Kepala Suku (tribal head) nor the Mamak Kepala Waris. In 2000, the Mamak Kepala Suku was Nawi Dt. Pangulu Sati, currently held by Busrial Dt. Pangulu Sati, and the Mamak Kepala Waris was Binu Labai Mangkuto.

Resolution Process for the Dispute Over the Customary Land of the Bodi Sapik Clan that Was Certified Without Permission from the Mamak Kepala Waris in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency

Land disputes are conflicts arising from conflicting interests over land. In today's world, land disputes are unavoidable. This is due to the high demand for land, while the amount of available land remains limited.⁶ The resolution of such disputes under customary law can be carried out through two main methods: litigation and non-litigation. Non-litigation dispute resolution can be done through negotiation, consensus, mediation, and conciliation. In customary dispute resolution, customary institutions such as village courts or customary courts often act as mediators. The judges in these institutions are usually traditional leaders or community heads.

In general, communities that still uphold their customs in dispute resolution usually use a familial approach, employing a deliberative consensus model led by the local customary leader.⁷ This method is referred to as out-of-court or non-litigation dispute resolution. Indigenous communities prefer this route because it is seen as an effective way to prevent future conflicts between the disputing parties.

Moreover, non-litigation dispute resolution is not bound by strict timelines and can be conducted quickly. It is also relatively inexpensive since it follows mutually agreed-upon customary rules and is conducted in a peaceful manner through deliberation.

However, if no resolution is reached through non-litigation methods or if the disputing parties fail to reach an agreement, legal action through the court may be pursued. Legal proceedings have both advantages and disadvantages compared to non-litigation methods. The advantages of resolving disputes through litigation are that court decisions have a perfect evidentiary value and a stronger execution power. The downside is that reaching a legally binding final decision (*inkracht*) through litigation takes a considerable amount of time, while non-litigation dispute resolution is relatively quicker, and the agreements reached are immediately final.

In accordance with West Sumatra Regional Regulation No. 7 of 2023 on Customary Land, the process of resolving customary land disputes requires that before a dispute is settled by the Nagari Customary Council or customary court, it should first be resolved at the grassroots level, starting with the family, the clan, or the sub-clan. However, if the dispute occurs between clans within the same nagari, the resolution can be directly submitted to the Nagari Customary Council (KAN) or the customary court. The execution of dispute resolution decisions is done step by step, involving the *penghulu* (village head) and the Mamak Kepala Waris of the respective clan.

In the case researched by the author, the dispute over the Customary Land of the Bodi Sapik clan, which was certified without the permission of the Mamak Kepala Waris in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, was eventually resolved through legal action, or through the court. This occurred because no agreement could be reached between the Plaintiff and the Defendant. Based on an interview with the Defendant, Mrs. Tisra Juwita, on

⁶ AditYo Santoso, Et. Al., 2023, "Effectiveness of Legal Efforts in the Dispute Over Ulayat Land of the Pantai Raja Indigenous People with PTPN V," **Jurnal Kewarganegaraan**, Vol. 7 No. 1, 2023, p. 1259.

⁷ Nelson Bilung, 2020, **The Role of Customary Leaders in Resolving Ulayat Land Disputes in Long Temuyat Village, Kayan Hulu District, Malinau Regency, North Kalimantan Province**, *eJournal of Government Science*, Vol. 8, No. 4, 2020, pp. 16-17.

Wednesday, November 6, 2024, at around 10:00 AM via phone, the resolution of the dispute over the Customary Land of the Bodi Sapik clan, which was certified without the permission of the Mamak Kepala Waris in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, had previously been attempted through negotiation.

In 2019, the Plaintiff called the Defendant to discuss purchasing the Sungai Ladang rice field. Negotiations took place between Damanhuri Dt. Bijo Dirajo and Tisra Juwita (the Defendant). However, the price offered to the Defendant's child was not agreed upon, leading to a problem that ended with a police report filed by Damanhuri Dt. Bijo Dirajo. The dispute was also taken to the State Administrative Court (PTUN). However, the PTUN did not accept the Plaintiff's claim. According to the Defendant, before the PTUN ruling was issued, the Defendant was further charged with being a "receiver of stolen goods." As a result of this charge, the Defendant was summoned to the Police Station in Tanah Datar Regency. This incident occurred in 2020, and because the Defendant resided in Jakarta for the past four years, they had to travel back and forth between Jakarta and Jorong Baruah, Nagari Padang Magek. According to the Defendant, the Unit Head (Kanit) of the Tanah Datar Police Station had threatened the Defendant, which led the Defendant to reluctantly agree to transfer the land to the Plaintiff.

Initially, the Tanah Datar Police Unit Head proposed a sales agreement for the Sungai Ladang rice field between the Plaintiff and Defendant. However, the Defendant refused to sign, stating, "Unless we receive money, that would be a sale." This is because, essentially, a sale involves the exchange of goods or property voluntarily between both parties, where one party receives goods or property, and the other receives money or something of equal value.

Finally, a gift agreement (hibah) was drawn up, which the Defendant agreed to. The Police Unit Head also requested the Defendant's Identity Card (KTP) and Family Card (KK), but the Defendant only provided the KTP, refusing to hand over the Family Card. During the first mediation between the Plaintiff and Defendant, the agreement reached was that the Defendant would transfer the Customary Land to the Plaintiff, and the certificate for the Customary Land would be transferred into the name of the Plaintiff's child. Subsequently, the Plaintiff requested IDR 100,000,000 (one hundred million rupiah) from the Defendant, to which the Defendant agreed, provided that the Plaintiff would not pursue criminal charges against the Defendant's older brother.

Another mediation session was held at the Tanah Datar Police Headquarters, where the agreement to transfer the certificate for the Customary Land to the Plaintiff was finalized. The Defendant, feeling threatened and pressured, agreed. However, after the certificate was transferred to the Plaintiff, a new issue arose when the Plaintiff's son-in-law attempted to go to the notary to change the name on the certificate. However, the notary required the signature of both parties (the giver and the receiver of the gift) in front of the notary, which has prevented the name transfer from being completed.

In 2021, this case was resolved in the Batusangkar District Court (Class II) with case number 67/Pid.B/2021/PN Bsk, involving criminal charges. The Defendant in this case was Jhond Kennedy Dt. Janguik Bin Juslami (deceased). The Batusangkar District Court sentenced Jhond Kennedy Dt. Janguik Bin Juslami (the Defendant's older brother) to 1 year and 6 months in prison for the crime of "forgery of documents."

In 2022, Damanhuri filed a lawsuit with the Batusangkar District Court, case number 27/Pdt.G/2022/PN Bsk, where the Defendants were Tisra Juwita and Hasni Wirda, the younger siblings of Jhond Kennedy Dt. Janguik Bin Juslami. In this lawsuit, Damanhuri, the Plaintiff, generally requested the court to declare that the Ownership Certificate No. 164 in the name of the Defendants was invalid and void by law, with all its legal consequences.

The Plaintiff also requested that the National Land Agency (BPN) of Tanah Datar Regency cancel the Ownership Certificate and issue a new certificate in the Plaintiff's name

for the land covered by Ownership Certificate No. 164, which is the subject of the dispute over the Customary Land of the Bodi Sapik Clan.

In the Batusangkar District Court's ruling on case number 27/Pdt.G/2022/PN Bsk., the panel of judges accepted the Defendant's objection regarding absolute competence. This means that the Batusangkar District Court did not have the jurisdiction to examine, adjudicate, and rule on the civil case of lawsuit number 27/Pdt.G/2022/PN Bsk, as it fell under the jurisdiction of the State Administrative Court (PTUN). The full ruling of the Batusangkar District Court is as follows:

- a. The exceptions raised by the Defendants and the Co-Defendant regarding absolute jurisdiction are accepted;
- b. The Batusangkar District Court does not have jurisdiction to examine and adjudicate the civil case of lawsuit number: 27/Pdt.G/2022/PN Bsk;
- c. The Plaintiff is ordered to pay court costs amounting to IDR 1,092,000.00 (one million ninety-two thousand rupiah).

Based on an interview with the Defendant on Wednesday, November 6, 2024, at around 10:00 AM via phone, the Defendant confirmed that they could no longer use or cultivate the Customary Land. The Plaintiff now uses the land, based on a gift letter from the Defendant. According to the Defendant (Tisra Juwita), many plots of Customary Land owned by the Plaintiff's children have been developed into houses and shops, while others remain farmland. The certificate for the Customary Land of the Bodi Sapik Clan cannot be canceled as it has already expired.

CONCLUSION AND SUGGESTION

Conclusion

The Defendant did not seek permission from the Mamak Kepala Waris when creating the certificate for the Ulayat Land of the Bodi Sapik Clan in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency, for several reasons: First, the land was not registered by the Defendant but by the Defendant's elder brother, Jhond Kennedy Dt. Janguik Bin Juslami (deceased), to ensure that his two younger sisters (Tisra Juwita and Hasni Wirda) received a share of the inherited property (Ulayat Land) since they had not yet received their share, unlike the other siblings. Second, there was concern that all the property would pass down to future generations, causing worry for the Defendant's mother. Third, the action was intended to preserve the "pusaka tinggi" (ancestral inheritance). The certification process for the Ulayat Land of the Bodi Sapik Clan without permission from the Mamak Kepala Waris began when Jhond Kennedy, the Defendant's elder brother, acted in his capacity as Head of Padang Magek Tengah Village in 2000. At that time, the National Agrarian Operation Program (Prona) authorized village governments to issue land ownership certificates (sporadic letters). These sporadic letters served as the basis for issuing land certificates by the Tanah Datar Regency National Land Agency (BPN). In this process, the Village Head registered the Ulayat Land under the names Tisra Juwita and Hasni Wirda. Additionally, he issued clan head and tribal head letters, some of which contained forged signatures. Through this process, the Ulayat Land was certified under the names listed in the sporadic documents, resulting in certificates issued by the BPN. The resolution of the dispute over the Ulayat Land certification, conducted without permission from the Mamak Kepala Waris, involved the following steps: Initially, negotiations were held between the Plaintiff and the Defendant to determine the value of a pledge on the Ulayat Land. However, no agreement was reached, leading to the escalation of the dispute. Subsequently, mediation was conducted at the Tanah Datar Regency Police Department, where the land was donated to the Plaintiff under duress from the Defendant. The dispute was then brought to the Batusangkar District Court, which ruled that it lacked jurisdiction over the matter. The Plaintiff then filed a lawsuit with the Administrative Court, but the claim was

rejected as it was deemed time-barred. Consequently, the Ulayat Land certificate could not be revoked. Currently, the land is under the Plaintiff's control based on a donation letter from the Defendant to the Plaintiff.

Suggestion

It is recommended that the resolution of disputes over the Ulayat Land of the Bodi Sapik Clan prioritize a familial approach, involving tribal leaders or customary chiefs to mediate and resolve conflicts. The Nagari Customary Council (KAN) is expected to enhance its role in resolving disputes over Ulayat Land in Jorong Baruah, Nagari Padang Magek, Tanah Datar Regency. As the highest customary deliberative body in West Sumatra, KAN plays a critical role in maintaining harmony and ensuring just resolutions. The Mamak Kepala Waris and all clan members should understand that the Ulayat Land is not private property but communal heritage. Its preservation and utilization should be carried out collectively to benefit future generations within the clan.

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