

LEGAL EFFECTS ON CONTROL OF RIGHTS TO LAND OF THE FORMER EIGENDOM VERPONDING STATE IN DISPUTES BETWEEN HEIRS THE MULLER FAMILY WITH CITIZENS OF DAGO ELOS BANDUNG

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Abstract

Indonesia's Basic Agrarian Law (UUPA) sets out the requirements for the conversion of verponding eigendom land, regulating the rights of Westerners to be included in the applicable land law system. Based on the UUPA, land rights must be converted until September 24 1980. However, there are still frequent claims of land ownership resulting from eigendom disputes that have not been legally resolved, which causes land disputes. Case of verponding eigendom land dispute between the heirs of the Muller Family, PT. Dago Inti Graha versus Dago Elos residents is a clear example of the complexity that can occur in land ownership issues. Since it started in 2016, this dispute has been decided four times, one of which was at the PK level with Case Register Number 109 PK/Pdt/2022. Normative juridical and analytical descriptive approaches, in legal studies and relevant legal cases are analyzed. Result: According to the provisions of UUPA and its implementing regulations, as well as Government Regulation no. 24 of 1997, if there is no land eigendom verponding convention, the land then becomes state property. Through the trial, the Panel of Judges considered that the heirs of the Muller Family had succeeded in proving that they were the legal holders of land rights, compared to the claims of Dago Elos Residents who did not have proof of ownership and that the Muller Family heirs had more complete and valid supporting documents than the Residents. Dago Elos. Based on these considerations, the judge decided that the heirs of the Muller family had stronger and more legal rights to the disputed land than the Dago Elos residents. Therefore, the legal consequences for control of disputed land are that the heirs of the Muller family have the right to register the land and obtain legal recognition of ownership of the disputed land.

Keywords: legal consequences, eigendom verponding, land rights

INTRODUCTION

Indonesia's history as an agrarian country, land is very important for the lives of its people. Land has a very high value from various economic, social, cultural, and legal perspectives. This awareness of the importance of land prompted the country's founders to pay special attention to designing fair and sustainable agrarian policies. One of the proofs of this concern is the ratification of Law No. 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), as well as the principles clearly stated in the 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3). (Soekanto & Taneko, *Hukum Adat Indonesia*, 2011, p. 172) (Syarif, 2012, p. 1)

BAL is an important milestone in the history of Indonesian land because it changes the country's agrarian legal system, namely agrarian law *Dualism Agrarian Law*, affirms state authority, regulates rights to land, and implements agrarian reform. BAL aims to create a more equitable, sustainable, and socially just land system. (Harsono, *Hukum Agraria Indonesia (Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaannya)*, 2013, p. 12) The abolition of the term "land rights" in Western Law is one of the major changes made by the UUPA, as stated in the Civil Code. After the entry into force BAL, the term right *Opstal* rights *erfpacht*, as well as the right to *eigendom* are no longer used. His successor BAL introduce new terminology that is more in line with national needs and integrate relevant customary law principles. (Santoso, *Hukum Agraria; Kajian Komprehensif*, 2017, p. 23)

Land rights are regulated in Article 16 paragraph (1) of the UUPA, this includes various types of rights that are more in accordance with national conditions and needs and are a substitute before the enactment of the UUPA. Article 55 paragraph (1) of the UUPA, *opstal* rights, *erfpacht* rights, and *eigendom* rights must be converted according to the type of rights recognized by the UUPA. The provisions in the UUPA must change the existing rules before the enactment of the UUPA regarding land rights.

The UUPA regulates in detail the process of converting land, especially in the second part which includes Articles 57 to 60, and is affirmed through the Regulation of the Minister of Agrarian Affairs No. 2 of 1960 on the Implementation of the Provisions of the UUPA. After the UUPA was enacted in 1960, land rights *eigendom* must be changed within a certain time limit. The conversion must be completed between 20 years until September 24, 1980, in accordance with the regulations implementing the UUPA. The land will be owned by the state (Parlindungan, *Berakhirnya Hak-Hak Atas Tanah Menurut Sistem UUPA (Undang-Undang Pokok Agraria)*, 2001, p. 6) if Rights Holders *eigendom* not to convert land within the predetermined time limit, and its use will be rearranged in accordance with the existing policy, namely according to the explanation contained in Presidential Decree No. 32 of 1979 concerning Principles of Wisdom in the Context of the Grant of New Rights to Land from the Conversion of Western Rights and Regulation of the Minister of Home Affairs No. 3 of 1979 concerning Provisions Regarding the Application and Granting of New Rights to Land from the Conversion of Western Rights. (Mujiburohman, *Problematika Pengaturan Tanah Negara Bekas Hak Yang Telah Berakhir*, 2016, p. 151)

Often, the soil *Eigendom verponding* The land has not been converted and causes disputes. The term "*Eigendom verponding*" actually refers to property rights (*eigendom*) related to land and fixed property, as well as taxes (*verponding*) imposed on the property. However, the settings related to *verponding*, whether provided for in the Ordinance *verponding* Indonesia 1923 and the Ordinance *verponding* 1928, has been declared non-applicable. Thus, the term " (*Sanjaya & Rahmatiar*, 2024, p. 167) *Eigendom verponding*" actually refers to the concept of property rights related to land and property remains, without any relation to tax payments *verponding*. This makes the term equivalent to the term "*eigendom*". (Parlindungan, *Pendaftaran Tanah Di Indonesia*, 2009, p. 1)

The case in case Number 109 PK/Pdt/2022 seems to be in the spotlight of many parties. This case involves several parties who have a dispute over ownership of land. The object of this dispute is three plots of land that are former *eigendom verponding*, the three plots of land are the objects of dispute between the parties involved in the case, including the Plaintiff, the Defendant, and the Co-Defendant. The legal process will determine the ownership and control of these lands according to evidence and legal considerations.

In this case, there was a dispute between the Plaintiff and the Defendant regarding the ownership of the land which was used land *eigendom*. The Plaintiff argued that the Defendant had violated the law by acquiring the land. The Plaintiffs felt that the Defendants' actions had caused them harm, both financially and substantially related to the ownership and possession of the land they claimed. Meanwhile, the Defendant argued that, for more than 30 years they had cultivated and controlled the land. Their control over the disputed land is not illegal. They also show that they have a certificate of ownership. (Mujiburohman, *Legalisasi Tanah-Tanah Bekas Hak Eigendom*, 2021, p. 117)

The main problems of this study include: What is the legal status of former *eigendom verponding* land that has not been converted according to laws and regulations? What is the judge's consideration on the rights of the Muller Family's heirs to the former *eigendom verponding land*?

RESEARCH METHODS

Normative juridical research, The author can conduct a search for various relevant legal provisions, evaluate their suitability with the case or problem being researched, and compile legal arguments or opinions based on a careful analysis of existing legal norms.. (Febrianty, Gagarin, & Abas, 2014)

This research is descriptive and analytical in nature to provide a complete, comprehensive picture and in-depth analysis of the applicable legal situation related to the case being studied. (Surya, Rahmatiar, & Asad, 2024)

RESULTS AND DISCUSSION

Legal Status of Former Eigendom Verponding Land That Is Not Converted According to Laws and Regulations

Law No. 3 of 1960 concerning the Possession of Fixed Objects Owned by Individual Dutch Citizens is regulated by the following provisions:

1. Object of Control: Refers to a fixed object owned by an individual Dutch citizen.
2. Exception: Based on Law No. 86 of 1958 on the Nationalization of Dutch Companies, if the object has been nationalized, it is not included in the scope of this control.
3. Owner Condition: The owner of the object has left the territory of the Republic of Indonesia.
4. Implementation of Control: Carried out by the Minister of Agrarian Affairs (Muda).

Thus, if there are fixed assets such as land and buildings owned by individual Dutch citizens, and these assets have not been subject to previous nationalization, and the owners have left Indonesia, then these assets will be controlled by the state through the Minister of Agrarian Affairs. (Harsono, Hukum Agraria Indonesia (Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaannya), 2013, p. 58)

The Civil Code regulates property rights as "land" *eigendom*", especially Article 570 of the Civil Code which gives the owner full right to enjoy an object, including land and buildings, as long as the action does not violate the law. *Verponding* is a tax imposed on a fixed object, documented with a title deed or other land deed. Society uses the term (Faisal, 2017, p. 32)*Eigendom verponding* specifically refers to the ownership of land that is subject to certain taxes.

In practice, *verponding eigendom* is not recognized as the basis for land rights in Indonesia in the process of registering its rights, so the land needs to be converted. There are several reasons why *the verponding eigendom* is no longer recognized as the basis for land rights in Indonesia:

1. Colonial Land Politics: The theory of Indonesia's national unity is not in line with the colonial land system. This is shown by Article 51 IS/Article 62 RR paragraph (5). The 1945 NRI Constitution paragraph (3) is contrary to this.
2. Conversion of Land Rights: For *verponding eigendom land* that has not been recognized, conversion is required in accordance with the applicable laws and regulations in Indonesia. This conversion is necessary so that land rights can be recognized and registered in accordance with applicable regulations.

Thus, to recognize land rights in Indonesia, there needs to be a conversion process for rights owners *Eigendom verponding* so that their rights can be recognized and registered. (Faisal, Perlindungan Hukum Bagi Pemegang Hak Atas Tanah Dalam Pembebasan Tanah Untuk Kepentingan Umum, 2017, p. 33)

Satjipto Rahardjo stated that legal certainty is an important component of the legal system, when the law has been clearly and definitively established, legal certainty will be present. The Basic Agrarian Law was established in conjunction with its regulations, which included regulations on land. In the process of converting land, the right holder gets legal certainty regarding the status of his land and is recognized by the agrarian law. The conversion is part of an effort to adjust agrarian rights with the aim of standardizing or unifying agrarian law in Indonesia. (Mahendra & dkk, 2016, p. 48)

Based on the conversion regulations in the UUPA and its implementing regulations, as well as Government Regulation No. 24 of 1997 concerning Land Registration regarding the legal status of land rights to former *eigendom verponding*, after the screening process produces two possibilities, including:

1. State land: If for reasons of nationality and does not meet the provisions of land conversion in accordance with the provisions of the UUPA, then the land can be considered state land.
2. Conversion into rights regulated under the UUPA: The conversion of *eigendom verponding land* can be changed according to the provisions of the UUPA to property rights, building use rights, or

use rights. To make this conversion, the old rights holder must prove that they have the right in accordance with the provisions of the UUPA.

According to Article 2 of the UUPA, the state has organizational power over the state, which allows the state to control the regulations and allocation of land in accordance with the status of state land. The legal relationship between individuals or groups that have land rights is regulated by the state when *the verponding eigendom* land is converted into state land.

The government has authority over the status of state land, to regulate the use, utilization, and allocation of land in accordance with the public interest and national development. This includes arrangements regarding land acquisition for development projects, granting land use permits, and land allocation for the socio-economic benefit of the community. Thus, changes in land status *Eigendom verponding* becoming state land provides a legal basis for the state to regulate the relationship between individuals or groups with the land in accordance with the public interest and national development. (Mahendra & dkk, Kekuatan Hukum Sertipikat Sebagai Bukti Kepemilikan Hak Atas Tanah Studi Kasus Putusan Nomor 191/B/2014/PT.TU.Sby, 2016, p. 56)

Judge's Consideration on the Rights of the Muller Family Heirs to the Land of the Former Eigendom Verponding

The Panel of Judges will deliberate to reach an agreement in making a decision by outlining the legal reasons, as stipulated in Article 178 of the Criminal Code (*Herziene Inlandsch Reglement*). This means that in addition to establishing the decision, the judge's decision must be accompanied by legal reasons that support it. An Indonesian legal expert, Sudikno Mertokusumo, said that what is meant by a judge's decision is a statement issued by a judge (state official) and given the authority to do so. This statement is delivered during the trial with the intention of resolving a dispute/dispute between the parties involved. (Mertokusumo, 2009)

Decision Number 109 PK/Pdt/2022 is the fourth verdict on the same case. The previous decision consisted of three previous decisions: (1) First Level Decision Number 454/Pdt.G/2016/PN Bdg; (2) Appeal Level Decision No. 570/Pdt/2017/PT Bdg; and (3) Cassation Level Decision Number 934 K/Pdt/2019. The Supreme Court Justice considers the following in the Review Rate:

1. In the First Instance, the heirs of the Muller family (the Plaintiff) did not convert the three lands in dispute. Thus, the land is directly controlled by the state.
2. At the initial stage, the Dago Elos Residents (Defendant) stated that all Dago Elos Residents had worked on the land of the object of the dispute. However, they do not have valid evidence to support their statements.
3. The statement issued by the Village Head stated that it did not find from them (Dago Elos residents), either from the cultivators/residents who occupy the disputed land to ask for the land rights.
4. The heirs of the Muller Family applied for land registration for the land in dispute.
5. The heirs of the Muller Family have stronger evidence than the Dago Elos Citizens of the former western rights of the state land ownership/*verponding eigendom*. As a result, the heirs of the Muller Family are the legal parties and have the right to register the land object of the dispute are the heirs of the Muller Family.

With this consideration, the Supreme Court Justice at the level of Review decided to uphold the decision in his case. (Syukur & dkk, 2022, p. 57)

According to the author, the Supreme Court judge should consider his decision, that the heirs of the Muller Family as the Applicant failed to fulfill their legal obligation to register or convert their land in accordance with the applicable legal provisions, which is no later than 20 years after the UUPA was promulgated in 1980. In addition, the Panel of Judges did not consider the original rights to the land and the fact that some residents already have certificates of some of the disputed land. The 1945 Constitution of the Republic of Indonesia Article 28 H paragraph (4) stipulates the right of everyone to own their own personal property, and is not allowed to take forcibly/arbitrarily from any party.

According to Government Regulation No. 24 of 1997 concerning Land Registration Article 23 concerning the proof of new rights gives the right to Dago Elos Residents to register the land subject of dispute, because the heirs of the Muller Family cannot prove real control over the land subject of dispute. The Supreme Court's decision should consider these aspects in deciding the case, especially in the context of actual land ownership and control.

The author argues that, as stated in Article 4 paragraph (1) of the UUPA, Article 28 H paragraph (2), and Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the judge's consideration when granting the land registration process does not provide security, protection and legal certainty to the Dago Elos Citizens.

The Supreme Court judge in deciding the case of Unlawful Acts due to control of the land subject of dispute, that the judge has not given a sufficient and in-depth explanation of the legal reasons underlying the decision. Thus, the parties to the dispute experience legal uncertainty as a result. Therefore, the court or the Supreme Court must provide further explanation of the considerations used by the judge in giving his decision as clarity and legal certainty to the parties to the case.

As a result of the Review decision, the Defendant was then sentenced to vacate the land of the object of dispute by demolishing the buildings/buildings on it and handing over the land of the object of dispute to the Plaintiff unconditionally. Thus, the three lands are no longer occupied/occupied and owned by the Defendant; Certificates, papers, and other documents related to the disputed land become invalid / invalid because they do not have legal force. Thus, the Defendant can no longer use the certificates or papers as proof that they own the land subject of the dispute; This decision must be respected and complied with by the Defendant/Respondent PK, this shows that the Defendant must immediately complete the certification process and a certificate must be issued immediately for the three lands that are the object of dispute belonging to the Plaintiff. Thus, the decision stipulates clear legal consequences for the Defendants and Co-Defendants in the case.

CONCLUSION

From the discussion, several conclusions can be drawn: The conversion of land rights is carried out through the land registration process submitted by interested parties by attaching the necessary evidence. Land that was not converted into land rights until September 24, 1980 and was not designated as land for the public interest by the government is legally owned by the state. The Dago Elos and Muller families are in dispute over the land of the former Western Rights state. As of September 24, 1980, no application has been filed by George Hendrik Muller or any other Muller Family to convert the land they own to be converted into land regulated in the UUPA. It can be seen that failure to convert land according to the stipulated provisions can cause the land to be in state ownership and result in legal disputes between interested parties.

The application for land registration filed by the heirs of the Muller Family against the land in dispute does not take into account the old regulations on proving old rights, especially after Article 95 of Government Regulation No. 18 of 2021 was added. This shows that the Panel of Judges ignored the principle of *Lex Posterior Derogat Legi Priori*, which stipulated that the new law overrides the previous law. In the context of agrarian reform, land registration by the heirs of the Muller Family does not show the existence of a social function in the land that is the object of dispute. As a result, the decision does not consider the principle of justice for the residents of Dago Elos, who have property rights and building rights to the disputed land. The judge's decision can cause injustice to the parties involved in the case because it does not always reflect or comprehensively consider changes in the law. Thus, a deep understanding of relevant legal regulations in the legal decision-making process is needed.

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