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## **Role of the National Land Agency in Settlement of Land Boundary Disputes in Jayapura City**

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### **Abstract**

The important role of the National Land Agency in resolving land boundary disputes in Jayapura City cannot be ignored. Many problems arise from land disputes due to the non-implementation of the Delimitation Contradictory Principle, namely the principle relating to the measurement and determination of land boundaries by the BPN. The aim is to find out the application of the Delimitation Contradictory Principle at the Jayapura City Land Office and also to find out the settlement of land disputes due to the non-applicability of the Delimitation Contradictory Principle at the Jayapura City Land Office. The method used in this research is normative and empirical law seen from the applicable laws and regulations and the reality that occurs in the field. The findings of this study indicate that the application of the Delimitation Contradictory Principle at the Jayapura City Land Office is actually according to procedure. However, there are internal problems with the old maps which have been lost and damaged, so there is often overlapping of plots of land. Apart from that, the absence of bordering parties in the field also often occurs, so that BPN must entrust the measuring drawing filling sheet. This causes the application of the Delimitation Contradictory Principle to not run properly, and land disputes cannot be resolved properly. To overcome this, BPN facilitates mediation for the disputing parties so that they do not proceed to more serious problems and even lawsuits in court. If it has not been resolved, a team is formed to deal with it and find a solution so that the problems experienced by the parties do not need to go to court and all this is carried out according to the procedures in the applicable laws and regulations.

**Keywords** : Role, BPN, Dispute Resolution, Land Boundary

### **Introduction**

Land is a gift from the Creator and is also a national asset, in which the relationship between Indonesian people and land is eternal and unchanging (Kertasapoetra et.al, 1984). According to Article 1 paragraph (4) of the Basic Agrarian Law, "land" in the legal context is defined as the surface of the earth. Especially in Indonesia, which is an

agricultural country, land plays an important role in human life. As a result, land issues always play a role in everything that Indonesian people do (Nia Kurniati, 2016).

The Republic of Indonesia, which is a constitutional state based on the 1945 Constitution, guarantees and protects the rights of every citizen and includes their rights to own, acquire, and enjoy land rights (Adrian Sutedi, 2018). Given the importance of the land sector in promoting national development, there are additional issues in Indonesia's development which aim to increase equity in all fields, especially those related to land issues.

Land has played a much larger role in this period of development, both as a factor of production and as a platform for various commercial ventures. Land is a natural resource that can be found anywhere, but not all land can be owned or controlled by one person at a time.

Each plot of land must be recognized in Indonesia for its power and ownership so that it can be used and function as desired by the legal owner. Land registration is necessary to establish ownership of land rights and is the first step in the process of establishing ownership of land parcels. To guarantee legal certainty, the government is required to register land throughout Indonesia based on the Basic Agrarian Law (UUPA) Number 5 of 1960 concerning Basic Agrarian Regulations. In accordance with the guidelines set by the government, the government carries out land registration throughout the territory of the Republic of Indonesia to ensure legal certainty, according to Article 19 paragraph 1 of the UUPA (Supriadi, 2018).

Implementation in land registration in particular to ensure legal certainty regarding the ownership of land rights and the status of individual land parcels. However, there are still a number of obstacles that make the land registration process difficult to complete, leading to delays and unresolved issues. Sometimes there are land issues that need to be resolved, and these issues often lead to litigation over disputed land ownership claims or boundaries. This is all as a result of the existence of development projects that take part of the people's land and an increase in the population that is not proportional to the available land area.

Establishment of legal certainty regarding land ownership rights, especially for individuals or small groups, is very important to bring order to the land sector and thereby reduce the problem. The maintenance of parcel boundaries is a frequent topic of disagreement in surveying.

PP No. 24 of 1997 states that in order to avoid such conflicts, the authorized National Land Agency must determine boundaries or stakes for each plot of land. The delimitation contradiction principle must be observed in drawing the lines that divide the land parcels. The Principle of Boundary Contradiction is a rule used in the land registration process that mandates owners of land rights to pay attention to the location, placement, determination, and maintenance of land boundaries contrary to or based on the agreement and approval of interested parties, especially the owner of the land. adjacent.

Administration in determining land boundaries is based on the agreement of the parties involved in land registration, so that it is as applied when measuring land parcels to reduce land dispute resolution. The Delimitation Contradiction Principle still faces a number of challenges even though it has been properly regulated in terms of land

ownership.

The following problems often arise, internal ownership between landowners and landowners who take shelter; no collateral for landowners and landowners at the time of delineation; and overlapping or missing land parcel boundaries resulting in overlapping land parcel boundaries because the two parties could not reach an agreement, the measurement process could not be carried out properly.

The land registration process was hampered by this. Therefore, landowners and adjacent landowners must be present to reach an agreement during any purchase of land boundaries. However, nearby property owners sometimes cannot come because they live out of town or even abroad.

The landowners had no way of communicating with their neighbours, nor did village officials know the exact boundaries of the land. The principle of the contradiction of delimitation is hindered by these limitations.

The application of the principle of boundary contradiction in land registration has not been fully implemented, as seen in the Jayapura City Land Office as an example of this because there are still determination/measurement of land boundaries which cannot be seen directly by the owners of the adjacent land. In the case of land registration, especially in determining land boundaries, it must be applied as a delimitation of contradictions. Future land boundary disputes may occur due to not implementing it.

## **Literatur Review**

The Basic Agrarian Law (UUPA) is the basic regulation governing control, ownership, allotment and control of land use with the aim of implementing the management and utilization of land for the greatest prosperity of the people. One aspect needed for this purpose is regarding legal certainty of land rights, which is the main basis for legal certainty of land ownership (Muchtar Wahid, 2008).

In Article 1 of Government Regulation Number 24 of 1997 gives the meaning, Land Registration is a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data in the form of maps and lists, regarding land parcels and apartment units, including issuance of letters and proof of title for land parcels for which there are rights and ownership rights to apartment units as well as certain rights that burden them.

Disputes that often occur in Measurement are Disputes regarding the determination of boundaries of land parcels. According to the provisions of Government Regulation Number 24 of 1997, in order to prevent disputes over the determination of land parcel boundaries, it is necessary to determine land parcel boundaries or stakes carried out by an authorized agency, namely the National Land Agency. In determining the boundaries of land parcels, it is also necessary to pay attention to the delimitation contradiction principle.

## **Research Method**

The research method used is normative and empirical law seen from the

applicable laws and regulations and the reality that occurs in the field.

## **Result and Discussion**

Regulated land registration is carried out according to the work plan determined by the Minister, while irregular land registration is carried out by parties who are not responsible or have no interest. The BPN officer arrives with a registration form in the form of a measuring sheet or drawing which will be signed and approved for the boundaries of the land plot at the time the measurement is made. Therefore, the applicant must make boundary markers in accordance with the specified requirements. Witnesses to this arrangement must be representatives from the northern, southern, western, and eastern border parties as well as local government officials.

Determination of land boundaries is the task of BPN, therefore when measuring with bordering parties it would be nice not to leave the measurement sheet because it could be misused and disputes between the parties could occur. All of this had to be anticipated at the beginning before the measurement, the BPN had to meet directly with the bordering parties, so it was clear which one was on the left, right, west and north. But the reality on the ground is that there are officers who do not think about the impact of leaving the measurement sheet, only wanting the job or task to be completed quickly, so they deliberately leave letters or land boundary measurement forms.

Based on this series of procedures, it is very important to determine the boundaries of the land to be surveyed with neighbors before conducting surveillance. The registration form is an elevation drawing signed by the parties making the boundaries as proof that the principle of conflicting boundaries has been followed in setting boundaries and dimensions. If not, no measurements are taken then the cadastral process is stopped and no product is issued in the form of a certificate.

Therefore, as a first step in supervision, each land owner must first determine the boundaries of his land according to the agreement of the neighbors adjacent to his land. 3 of 1997, Minister of Agriculture/Director General of the Republic of Indonesia. Because these are conflicting boundary setting principles. However, in practice, the principle of distinction of contrast is often not properly applied, because there is no agreement with neighboring parties regarding the boundaries of land parcels.

Interview with Mr. Rinus Erari who stated that the application of the delimitation contradiction principle can function effectively if there are no technical problems with the previous map, there are also old registrations that are lost or damaged and the National Land Agency often has to entrust it with filling in forms so from this automatically the delimitation contradiction is not enforced.

Either of all measurement procedures will encounter boundary dispute issues, such as overlap, if the Delimitation Contradiction Principle is not met. Mr. Geraldo Da Rosario Semi conducted an interview with the author, On Monday, 08 May 2023 at 09.25 WIB, discussing the following causes of boundary disputes in the real world:

1. Boundaries are not set in the presence of the parties involved. Due to being out of town or having an urgent need, neither the applicant nor the adjacent landowners could face the creation of these boundaries. However, the BPN will usually present

local representatives as witnesses and support the delineation.

2. The surveyor experienced difficulties because it was difficult to determine land boundaries clearly because of the lack of public awareness about maintaining boundary markers or markings on land parcels belonging to right holders. Other border parties may notice this and may cause disagreement.
3. The Delimitation Contradiction Principle is often misused by BPN officers. This happened when the measuring officer gave the measuring drawing filling sheet to the applicant because the border party was not present. However, the petitioner misinterpreted the signature of the acquitting party and specified an inappropriate boundary. Because of this, there are conflicts over disputed land boundaries and overlap between boundaries.

As already mentioned, the Delimitation Contradiction Principle cannot be followed, which may result in disputes. If one of the measurement procedures is not fulfilled, BPN can carry out a mediation settlement with the complainant and the complainant if differences of opinion can be properly discussed.

However, if a legal dispute arises, it must be handled in accordance with the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency of the Republic of Indonesia Number 9 of 1999 concerning Procedures for Granting and Canceling Land Rights.

In an interview with Mrs. Aprilia Numberi, according to the Head of the Land Disputes, Conflicts and Cases Section at the Jayapura City Land Office, complaints and Ministry initiatives as well as application complaints are the two main sources of information used to resolve land dispute cases. To reach a settlement, the Land Agency will facilitate mediation; if the conflict cannot be resolved, a procedural team will be formed. The National Land Agency will take appropriate action if the dispute concerns land boundaries, including overlapping or overlapping.

## **Conclusion**

After conducting the above research, the writer can conclude the following:

1. The application of the Delimitation Contradicture principle at BPN actually went well, but there were some technical problems in the previous maps such as old registration maps that were lost or damaged, which caused overlapping or overlapping of land parcels. In addition, bordering parties are often absent from the field so that BPN entrusts a sheet of measurement drawings, which results in the application of the Delimitation Contradictory principle not working properly.
2. BPN can facilitate mediation between the parties so that no court process is required to resolve land boundary disputes that arise as a result of not applying the Delimitation Contradiction principle. If the conflict is still not resolved, a procedural team is formed consisting of people from the structural work unit as outlined in the Minister of Agrarian Affairs/Kbnp Regulation No. 9 of 1999.

Based on these conclusions, the authors suggest the following:

- 1) BPN needs to carry out surveys and mapping on an ongoing basis. This means that data must be maintained continuously to avoid defects in administrative law. In measuring and determining land boundaries, BPN must not rely solely on land applicants. BPN must go directly to the location to ensure that the parties adjacent to the land boundary are present when measuring and determining land boundaries. The goal is to avoid disputes in the future.
- 2) People who want to register their land and make a certificate must have good faith. They must not only want to obtain a certificate but must also ensure that the data requested by the Land Office is not falsified. If not, this can lead to disputes in the future and can cause both material and non-material losses for those concerned.

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