THE LEGAL EFFECTIVENESS OF LAND REDISTRIBUTION IMPLEMENTATION EX-CULTIVATION RIGHTS TITLE IN SEMPU, BABADAN AND SUGIHWARAS VILLAGES KEDIRI, EAST JAVA

Nurbaedah UNISKA Kediri, East Java, Indonesia <u>nurbaedah@uniska-kediri.ac.id</u>

Abstract

This research aims to analyze the effectiveness of the implementation of land redistribution ex-Cultivation Rights Title as well as analyze its obstacles and solutions in Sempu, Babadan, and Sugihwaras Villages, Kediri, East Java. This study used empirical research methods with primary data as the main data. This research data uses primary data, namely interviews and secondary data which include laws, regulations on agrarian affairs, books and journals that study agrarian reform. The results of this study explain that the priority of implementing agrarian reform for ex-Cultivation Rights Title land that has expired its Cultivation Rights Title and within 1 year has not applied for a permit extension. The implementation of land redistribution in Sempu, Babadan and Sugihwaras Village, Kediri, East Java approximately 1,766 fields of former Cultivation Rights Title of PT Sumber Sari Petung has been 100% completed. The utilization of this former Cultivation Rights Title land is still used as agricultural land. The implementation of land redistribution of ex-Cultivation Rights Title to Use Enterprises in these three villages legal effectiveness has been achieved because redistribution can resolve agrarian conflicts. The obstacles encountered in land redistribution are limited human resources and limited time to complete land redistribution. The significance of this research lies in the importance of public and private sector participation in supporting the implementation of land redistribution, so that it can optimally realize agrarian reform.

Keyword: Cultivation; Land; Redistribution; Rights.

A. INTRODUCTION

Land has a vital role or meaning for living resources, for the people of Indonesia land is not only a place to live but also land as a place to grow crops, work and as a means of investment for the community.¹ In addition, land can also indicate social status.² However, there is a problem of uneven ownership and control of land which is directly proportional to the increase in unemployment and poverty rates in Indonesia. This is further exacerbated by the large amount of abandoned land so that the productivity of land

¹ Supriyadi Supriyadi., Reorientasi Asas Itikad Baik/Kebenaran Sebagai Dasar Kepemilikan Hak Atas Tanah, *Humani (Hukum dan Masyarakat Madani)*, Vol. 9, No. 1, June 22, 2019, page. 102–16

² Embun Sari et al., Politik Hukum Pengadaan Tanah Terhadap Tanah Abrasi Pasca Diberlakukan Undang-Undang Cipta Kerja, *Jurnal Ius Constituendum*, Vol. 7, No. 1, April 16, 2022, page. 50–67.

utilization is still low and not optimal in utilization for the welfare of the community. The next land problem in Indonesia is that the arrangement and arrangement of land assets for the benefit of the community is still not optimal so that the distribution of community ownership of land is still low.³ This problem is very vulnerable to causing conflicts and disputes in the agrarian sector because of the gap in land ownership between farmers and capital owners. This gap also has an impact on food security, the environment, and the availability of cheap housing for the people.⁴

Land disputes are quite complex issues involving various parties interested in the ownership of the land. Land ownership and agrarian reform are important to achieve certainty, legal protection, and justice and prosperity for all Indonesian people. That's why land ownership is important in national development.⁵ It is stated in MPR Tap number IX of 2001 article 2 that, agrarian reform includes a continuous process regarding realignment with the control, ownership, and utilization of Agrarian Resources (plantations, forestry, mining, and fisheries). One of the cases of agrarian resource disputes that occurred was the case of land disputes over former plantation rights in Kediri since 1982. This dispute occurred between residents of Sempu Village (Ringinsari and Sumberpetung Hamlets), Babadan Village (Sanding Hamlet), and Sugihwaras Village (Jambon Hamlet) and PT. Sumbersari Petung on State land covering an area of 6,342,760 m2.

Based on Decree Number 66 / HGU / BPN / 2000 concerning the Granting of Business Use Rights issued by BPN RI, the plantation land of the former Right to Cultivate covering an area of 6,342,760 m2 is managed or utilized by both parties. Land area of 3,842,760 m2 managed by PT. Sumbersari Petung and the remaining area of 2,500,000 m2 as Land Reform which is used by residents for agricultural activities. Basically, land reform is an overhaul of land ownership and control as well as legal relations related to land exploitation. The purpose of land reform is to distribute land as a source of livelihood for the peasants fairly.⁶ Land reform is a policy taken by the government that can increase farmer productivity, thus creating an increase in farmer welfare.⁷ Meanwhile, PT. Sumbersari Petung considers that the company is entitled to the 250 ha of land. Because PT. Sumbersari Petung has filed a lawsuit against BPN RI in Jakarta through the State Administrative Court both at the appellate level and at the Supreme Court

³ Listyowati Sumanto., Dinamika Reforma Agraria Dalam Sejarah, Konsep Dan Implementasi, *Jurnal Hukum Nawasena Agraria*, Vol. 1, No. 1, June 13, 2023, page. 39–48

⁴ Iwan Tjitradjaja., Perspektif Filosofis Dan Sosio-Kultural Atas Urgensi Pembaruan Agraria, In *Pembentukan Kebijakan Reforma Agraria, 2006-2007: Bunga Rampai Perdebatan*, Ed. Mohamad Shohibuddin And M. Nazir Salim, Yogyakarta, Sajogyo Institute And Stpn Press, 2012, page. 29.

⁵ Agus Wibowo And Siti Mariyam., Kontekstualisasi Hukum Agraria Dibidang Pertanahan Setelah Otonomi Daerah Di Indonesia, *Jurnal Pembangunan Hukum Indonesia*, Vol. 3, No. 3, September 17, 2021, page. 396–406.

⁶ Retno Sulistyaningsih., Reforma Agraria Di Indonesia, *Perspektif*, Vol. 26, No. 1, January 30, 2021, page. 57–64

⁷ Precious Zikhali., *Fast Track Land Reform And Agricultural Productivity In Zimbabwe, Working Papers In Economics,* Gothenburg, School Of Business, Economics And Law, University Of Gothenburg, October 21, 2008.

level, and PT. Sumber Sari Petung became the winning party. However, until now the decision of the Supreme Court has never been implemented by BPN RI regarding the cancellation of Decree Number 66 / CULTIVATION RIGHTS TITLE / BPN / 2000 concerning the Granting of Business Use Rights. On the other hand, the residents of 3 villages in working on the 250 ha land are based on the Regent Decree Number 363 of 2001 and this Regent Decree has never been the object of dispute or canceled. This condition caused a dispute between residents and PT. Sumbersari Petung.

Land disputes between PT Sumbersari Petung and residents are cases of public interest. With conflicts that occur for a long time, resolving them requires effective and efficient handling. In the midst of a number of previous researches, this research offers novelty in the steps of resolving agrarian resource disputes on former Cultivation Rights Title plantation land. This research takes the case of Sempu Village, Babadan and Sugihwaras Kediri, East Java, as a role model for agrarian reform.

B. RESEARCH METHODS

This research is a qualitative empirical/descriptive research on efforts to resolve agrarian resource disputes on plantation land of former Right to Use Enterprises located in Sempu, Babadan, and Sugihwaras Villages, Kediri, East Java. Qualitatively, interview data and primary data are described descriptively. Qualitative analysis needs to be done by describing in detail and in depth through sentences.⁸ This analysis is done by detailing the efforts that have been taken to deal with the dispute and will be compared with previous theories and studies.

Data collection was carried out using unstructured interview techniques using guideline of interviews. The data collected is information about dispute resolution that has been taken and settlements that have produced results and reached mutually beneficial agreements between residents and PT Sumber Sari Petung. The location of this research is located in Sempu Village, Babadan, and Sugihwaras, Kediri, East Java.

C. RESULTS AND DISCUSSION

Agrarian Reform which includes a continuous process related to the rearrangement of control, ownership and utilization of agrarian resources which is based on land redistribution. Meanwhile, the lands that can be used as land objects of land reform that have the essence of land redistribution are Right to Use Land whose period has expired and is not renewed which is finally controlled by the state. Land that has been abandoned or voluntarily released by the right holder before the expiration of time. These policies can reduce the incidence of agrarian disputes in the future. Thus, there is a need for a model of restructuring land ownership and tenure rights in a fair and wise manner,⁹ namely with agrarian reform that focuses on land

⁸ John W. Creswell., *Qualitative Inquiry & Research Design: Choosing Among Five Approaches*, 3rd Edition, London, SAGE Publications, 2013.

⁹ Ruth Hall., A Political Economy of Land Reform in South Africa*, *Review of African Political Economy*, Vol. 31, No. 100, September 1, 2004, page. 213–27

redistribution to the people which is carried out responsibly in order to achieve legal certainty and protection as well as justice and prosperity for all Indonesian people.

In resolving agrarian resource disputes on land used by PT. Sumber Sari Petung is carried out by agreement between residents of 3 (three) villages and PT. The agreement was mediated by BPN Kediri Regency and BPN RI and followed up by the implementation of land redistribution activities for land reform objects covering an area of 250 ha (two hundred and fifty hectares) through the stages of preparation, counseling, identification of subjects (cultivators) and objects (cultivated land), Land reform Consideration Committee sessions, selection of prospective recipients of redistribution, making quotations of land parcel maps (no measurement of land parcels was carried out, because measurement has been carried out), the issuance of the Decree Granting Property Rights and Quotations, and Bookkeeping Rights and Certificate Issuance with a budget financed by DIPA BPN RI in 2012.

While the proposed location of land redistribution activities for land reform objects is $\pm 1,766$ (approximately one thousand seven hundred sixty six) fields with details of Babadan Village as many as ± 535 (approximately five hundred thirty five) fields, Sugihwaras Village as many as ± 449 (approximately four hundred forty nine) fields and Sempu Village as many as ± 782 (approximately seven hundred and eighty-two) fields. The requirements for land redistribution of land reform objects are clear and clean land¹⁰ (juridically and physically there are no objections or claims from other parties, not in disputes and conflicts and not in forest areas), not attached to a thing (not yet certified) and the use of land for agriculture (both for rice fields / moor).

The requirement as a recipient of land redistribution for the object of land reform is that the beneficiaries in this activity are farmers, as referred to in the provisions of Articles 8 and 9 of Government Regulation Number 224 of 1961. Article 8 regulates the order of priority of the land recipients, namely the cultivators working the land concerned; farm laborers remain with the former owner, who works the land in guestion; permanent workers of the former landowners concerned; cultivators who have not worked on the land in question for 3 years; cultivators who work on the owner's rightful land; cultivators of lands that the government has given other designations under article 4 paragraphs (2) and (3); cultivators whose arable land is less than 0.5 hectares; owners whose land area is less than 0.5 hectares and farmers or other laborers. Based on article 9, farmers as referred to in article 8 must meet general requirements (Indonesian citizen, residing in the district where the land is concerned and strong working in agriculture / at least 18 years old or married) and special conditions (for farmers who are classified as priority cultivators who work the land concerned, farm workers remain with the former owner who works the land concerned, cultivators who work on owner's right land, cultivators of lands that the Government

¹⁰ Henry Bernstein., Land Reform in Southern Africa in World-Historical Perspective, *Review of African Political Economy*, Vol. 30, No. 96, June 1, 2003, page. 203–26,

452

has given other designations and cultivators whose arable land is less than 0.5 hectares have worked for at least 3 consecutive years).

Recipients of land redistribution for land reform objects have the obligation to complete administrative and technical requirements. These requirements include: a legalized copy of KTP (Identity Card), a legalized copy of KK (Family Card), a legalized copy of the last SPPT, SSB BPHTB (Letter of Deposit of Land and Building Rights Acquisition Duty) (both nil and paying); fill out each stipulated form, namely the certificate registration application form, a statement of physical control of the Land Object of Land reform State Land, providing stamp duty (as needed). For prospective beneficiaries who are not in accordance with the Decree of the Regent of Kediri number 363 of 2001 dated June 28, 2001, attach a death certificate (if deceased), a certificate of inheritance (if deceased), a statement of consent of heirs (if named one of the heirs) and a Village Head Certificate if the name and date of birth do not match.

The purpose of redistribution on land objects of landreform located in Babadan Village, Sugihwaras Village and Sempu Kediri Village for dispute resolution on plantation land of former Right to Use PT. Sumber Sari Petung then land redistribution activities do not stop until the provision of proof of land rights (certificates) which are asset reforms, but also provide facilities to open access to farmers to capital, technology, markets, capacity building, management and assistance. The implementation of Access reform must look at the existing potential, so that it can be known what form of Access reform will be developed.¹¹ For example, the utilization of land rights for what, the parties who participate, rights and obligations, the amount of capital / credit assistance, who provides guidance / assistance, and who accommodates or cultivates land products.

In general, the implementation stages consist of preparation and planning, counseling, carrying out inventory and identification of existing potentials, forming an Access to Reform Coordination Team consisting of stakeholders (related agencies, local governments, etc.), facilitating and coordinating meetings with stakeholders and cooperation/partnership (outlined in the MoU). The access reform model is developed by taking into account the economic situation and conditions, characteristics, potentials and socio-culture of the region.¹²

From the results of the identification of Land tenure of Landreform Objects in Sempu Kediri Village, the following data were obtained: land area of landreform objects: 128.9840 ha, number of fields 782 fields, number of cultivators 707 households. Of the 782 fields/707 households of land cultivators identified if clarified by Regent Decree No. 363 of 2001 as follows: a) as many as 591 fields, cultivators are still permanent / in accordance with Regent Decree No. 363 of 2001, as many as 125 fields,

¹¹ Mehdi Asgarkhani., Digital Government and Its Effectiveness in Public Management Reform, *Public Management Review*, Vol. 7, No. 3, September 1, 2005, page. 465–87

¹² Georg Wiesinger., The Importance of Social Capital in Rural Development, Networking and Decision-Making in Rural Areas, *Journal of Alpine Research | Revue de Géographie Alpine,* Vol. 95, No. 4, December 15, 2007, page. 43–56

land cultivators have died, land requested by heirs, and as many as 69 fields of land cultivators whose history of control is for public facilities, namely for public facilities of waqf and village government, the land has been transferred, the applicant does not feel that he controls / cultivates the land, the name of the heir does not match the name of the heir's parents in the family card, the number of heirs does not match reality and the beneficiary is domiciled outside the area.

From the results of the identification of Land tenure of the Land Object of Landreform in Babadan Kediri Village, the following data were obtained: land area of landreform objects: 61.7627 hectares, 535 fields, 507 households of land cultivator. The identification results of 782 fields/707 households of land cultivator if clarified with Regent's Decree No. 363 of 2001 as follows: a) as many as 434 fields, cultivators are still permanent / in accordance with Regent Decree No. 363 of 2001, as many as 93 fields, land cultivators have died, land requested by heirs, and as many as 8 plots of land cultivators who are outside the domicile (in Malaysia, Riau, Hong Kong, Batam, and Kalimantan).

From the identification of Land tenure of Land reform Objects in Sugihwaras Kediri Village, the following data were obtained: land area of land reform objects: 40.0316 hectares, 449 fields, with 425 households cultivator. Of the 449 fields/425 households of land cultivators identified if clarified by Regent Decree No. 363 of 2001 as follows: a) as many as 355 fields, cultivators are still permanent / in accordance with Regent Decree No. 363 of 2001, as many as 93 fields, land cultivators have died, land requested by heirs, and as many as 1 field of land cultivators whose history of control is proposed to be approved, Because it is the only heir who works actively while other heirs are not known to exist.

Based on the results and conclusions of the Landreform Consideration Committee session on September 21, 2011, several things were conveyed, namely: the proposed land was affirmed as a Landreform Object with the status of state land former Right to Use PT. Sumber Sari Petung and has been cultivated by sharecroppers since 2001; The residence of the cultivator in the villages of the sub-district area bordering the location of the land proposed to be affirmed. The Head of the National Land Agency of the Republic of Indonesia wants the process of issuing certificates through redistribution, prospective land recipients refer to the Decree of the Regent of Kediri Number 363 of 2001 dated June 28, 2001 or their heirs. To determine prospective recipients of land rights, a Minutes are made signed by each Village Head and Head of the Farmer Association; prospective recipients of land and land to be granted will be clarified in accordance with Regent Decree No. 363 of 2001 and real conditions in the field.

Normatively, land sale and purchase agreements in practice are often made in the form of an authentic deed before a Notary, so that the Sale and Purchase Agreement Deed is an authentic deed that has perfect evidentiary power. This is intended by the parties to provide more protection and legal certainty for the parties who make it. Because the notary in making a deed is impartial and maintains the interests of the parties objectively. With the help of a notary, the parties who make a binding sale and purchase will get help in formulating the things that will be agreed upon. Legal protection against the fulfillment of the rights of the parties where one of the parties makes a default in the sale and purchase binding agreement depends on the strength of the sale and purchase binding agreement made, that if it is made by a deed under the hand, the protection is in accordance with the protection of the deed under the hand, while if it is made by or before a Notary, it automatically becomes a notarial deed so that the protection is in accordance with the strength of protection against authentic deeds.¹³

Based on the Meeting of the Land Reform Consideration Committee of Kediri Regency dated October 4, 2012, the results of the session concluded as follows: (1) 588 plots of land cultivators in Sempu Village, as many as 434 plots in Babadan Village, and as many as 355 plots in Sugihwaras Village agreed to be granted property rights and issued certificates in accordance with applicable rules and regulations; (2) cultivators of 125 plots in Sempu Village, 93 plots in Babadan Village, and 93 plots in Sugihwaras Village agree to be granted property rights and issued certificates in accordance with applicable rules and regulations; (3) 8 plotters of Babadan Village land were reviewed, the identification results were heard in the next PPL (Land Reform Consideration Committee) session; (4) Sugihwaras Village land cultivators as many as 1 field are reviewed, the results of identification are heard in the next PPL session, traced family tree how many heirs, if it is clear that the rights of all heirs are proposed; and (5) cultivators of Sempu Village as many as 69 plots for re-identification, the results of which will be discussed again in the next session. In the session of the Kediri Regency Land Reform Consideration Committee on October 4, 2012 led by the Chairman of the Session is H. Supoyo, SH, M.Si as the Regional Secretary of Kediri Regency.

In this study, the obstacles encountered in the implementation of land redistribution in Sempu, Babadan and Sugihwaras Villages, Kediri, East Java, were limited human resources and limited time to complete land redistribution. Meanwhile, the community wants an acceleration to obtain certainty over land rights that are the object of redistribution and then so that they have reform assets, namely proof of ownership of property rights certificates. So that they can get access to reform can be used for guarantees to banks in order to increase capital to work on land reform objects.

With the redistribution of land reform objects in this study, the land of the former Right to Use PT. Sumber Sari Petung covering an area of 250 (two hundred and fifty) hectares released to the state and controlled by the state which was then redistributed to residents of Babadan Village, Sugihwaras Village and Sempu Kediri Village and PT. Sumber Sari Petung obtained the renewal of the Right to Use Enterprises covering an area of 397 (three hundred and ninety seven) hectares, so it is expected that

¹³ Heriyanti Heriyanti., Legal Protection For Parties That Make Binding Agreements For The Sale And Purchase Of Land That Has Not Been Certified In The Resolving Land Parcels Process, *Jurnal Pembaharuan Hukum*, Vol. 6, No. 1, March 6, 2019, page. 65–76

conflicts over agrarian resources on the land of the former Right to Use PT. Sumber Sari Petung Desa Sempu, Babadan, and Sugihwaras Kediri have been resolved and Agrarian resource conflicts on ex-cultivation rights title land will not occur again in the future.

On the other hand, the Complete Systematic Land Registration policy can be implemented collaboratively with sporadic registration. This is because not all communities may agree with the Complete Systematic Land Registration program. However, a collaborative registration system can be implemented to reach the target groups.¹⁴ The implementation of agrarian reform can be realized if there is political will from the government, support from the legislature, separation of interests between officials and business people, support from law enforcement officials, community involvement, availability of materials needed, and optimal preparation related to the implementation of agrarian reform.¹⁵

D. CONCLUSION

The implementation of Land Redistribution in Sempu, Babadan and Sugihwaras Villages, Kediri, East Java as many as $\pm 1,766$ (approximately one thousand seven hundred and sixty-six) fields with details of Babadan Village as many as ± 535 (approximately five hundred thirty-five) fields, Sugihwaras Village as many as ± 449 (approximately four hundred forty-nine) fields and Sempu Village as many as ± 782 (approximately seven hundred and eighty-two) fields of ex-cultivation rights title PT. Sumber Sari Petung has been 100% completed. The implementation of land redistribution of former Right to Use Enterprises in Sempu, Babadan and Sugihwaras Villages, Kediri, East Java, legal effectiveness has been achieved because redistribution can resolve agrarian conflicts. The obstacles encountered in land redistribution are limited human resources and limited time to complete land redistribution.

BIBLIOGRAPHY

Journals:

- Alvian, Fitra, and Dian Aries Mujiburohman., Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo, *Tunas Agraria*, Vol. 5, No. 2, April 18, 2022;
- Asgarkhani, Mehdi., Digital Government and Its Effectiveness in Public Management Reform, *Public Management Review*, Vol. 7, No. 3, September 1, 2005;
- Bernstein, Henry., Land Reform in Southern Africa in World-Historical Perspective, *Review of African Political Economy*, Vol. 30, No. 96, June 1, 2003;

¹⁴ Sulistyowati Sulistyowati., Land Registration And Sporadic Cooperation Policy, *Jurnal Pembaharuan Hukum*, Vol. 7, No. 2, August 31, 2020, page. 190–200

¹⁵ Fitra Alvian and Dian Aries Mujiburohman., Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo, *Tunas Agraria*, Vol. 5, No. 2, April 18, 2022, page. 111–26

- Hall, Ruth., A Political Economy of Land Reform in South Africa, *Review of African Political Economy*, Vol. 31, No. 100, September 1, 2004;
- Heriyanti, Heriyanti., Legal Protection For Parties That Make Binding Agreements For The Sale And Purchase Of Land That Has Not Been Certified In The Resolving Land Parcels Process, *Jurnal Pembaharuan Hukum*, Vol. 6, No. 1, March 6, 2019;
- Sari, Embun, Muhammad Yamin, Hasim Purba, and Rosnidar Sembiring., Politik Hukum Pengadaan Tanah Terhadap Tanah Abrasi Pasca Diberlakukan Undang-Undang Cipta Kerja, *Jurnal Ius Constituendum*, Vol. 7, No. 1, April 16, 2022;
- Sulistyaningsih, Retno., Reforma Agraria Di Indonesia, *Perspektif*, Vol. 26, No. 1, January 30, 2021;
- Sulistyowati, Sulistyowati., Land Registration And Sporadic Cooperation Policy, Jurnal Pembaharuan Hukum, Vol. 7, No. 2, August 31, 2020;
- Sumanto, Listyowati., Dinamika Reforma Agraria Dalam Sejarah, Konsep Dan Implementasi, *Jurnal Hukum Nawasena Agraria*, Vol. 1, No. 1, June 13, 2023;
- Supriyadi, Supriyadi., Reorientasi Asas Itikad Baik/Kebenaran Sebagai Dasar Kepemilikan Hak Atas Tanah, *Humani (Hukum dan Masyarakat Madani)*, Vol. 9, No. 1, June 22, 2019;
- Wibowo, Agus, and Siti Mariyam., Kontekstualisasi Hukum Agraria Dibidang Pertanahan Setelah Otonomi Daerah Di Indonesia, *Jurnal Pembangunan Hukum Indonesia*, Vol. 3, No. 3, September 17, 2021;
- Wiesinger, Georg., The Importance of Social Capital in Rural Development, Networking and Decision-Making in Rural Areas, *Journal of Alpine Research | Revue de Géographie Alpine*, Vol. 95, No. 4, December 15, 2007;

Books:

456

- Creswell, John W., 2013, *Qualitative Inquiry & Research Design: Choosing Among Five Approaches*. 3rd Edition, SAGE Publications, London;
- Tjitradjaja, Iwan., 2012, Perspektif Filosofis dan Sosio-Kultural atas Urgensi Pembaruan Agraria, In *Pembentukan Kebijakan Reforma Agraria, 2006-2007: Bunga Rampai Perdebatan*, edited by Mohamad Shohibuddin and M. Nazir Salim, 29. Sajogyo Institute and STPN Press, Yogyakarta;
- Zikhali, Precious., 2008, Fast Track Land Reform and Agricultural Productivity in Zimbabwe, Working Papers In Economics. School Of Business, Economics And Law, University Of Gothenburg, October 21, Gothenburg.