

Disputes Settlement To The Measured Object Of The Returns Border Of National Land Agency Against A Neighbor's Boundary Objects In Tegal

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Abstract. The land has an important role in human life because it is completely cannot be separated from land. The issue of the disputes of land boundary may cause a difference of opinion; the value of the interest regarding the layout, borders and vast areas of land that is recognized is the most issue that appears frequently in the Office of land Bordering Counties. The method of the approach that is used in this study is the juridical sociological approach. This approach was conducted to understand the law in the context of the society is a non-doctrinal approach. Through this approach, the object of the law will be meant as part of the social subsystem between the subsystems of the social subsystem-other dispute resolution borders against the border returns object, in the form of legal protection, for misusing of the follow- the Government is due to gross negligence at the time of measurement wide plots of land for the creation of a letter, then the measurement of legal protection used is the preventive protection of the law, the role of the national land Agency Chief Rules Based BPN No. 3 Of 2011 is about the management and treatment of Cases of land. The agreement or the consent of the parties concerned is essential in the framework of the implementation of dispute settlement returns the border of land ownership.

Keywords: Returns the Border; National Land Agency; Dispute Resolution.

1. Introduction

The land has an important role in human life because it's completely human life cannot be separated from the land or soil. They live above the ground and obtain foodstuffs by means of using the land. Land problems can cause the disputes because each man had different interests over land so often engender clashes of interest.⁴

The occurrence of conflict of an interest concerning the resources of the land that was called the issue of land. The issue of land are called as disputes or conflicts. Etymologically, the term "issue" is defined as something that must be resolved, the question is, was the term "dispute" is meant as something to cause dissent, the quarrel/dispute/discord, strife, in court, the "conflict" is the bickering, strife, contention. In spite of disagreements about the terms used in the study, which used the term "land dispute", includes the notion of the existence of an issue, dispute, dissent among the interested parties concerned soil resources. But certainly, the land dispute to do an assessment and handling by the agencies who have authorize to the

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issue completely. ⁵In the search for a settlement of the dispute of land policy, it is necessary from the implementing powers of the State (Government) in terms of arrangements and management in the areas of land ownership, especially in terms of the mastery, the use, and the utility. It is included in the dispute resolution efforts of land a rising and principally every land dispute can be addressed with norms and rules that exist, or otherwise resolved according to applicable law.

Boundary disputes is a difference of opinion, the value of the interest regarding the layout, borders and vast areas of land that is recognized is the most issue appear frequently in the Office of land Bordering Counties, there are approximately 70 applicants per- 2017 related to the Returns of the border. Based on the background above, authors was interested in writing a scientific writings in the form of a research entitled "Disputes Settlement to the measured Object of the Returns Border of National Land Agency Against a Neighbor's Boundary Objects in Tegal".

Based on the background above, then the matter will be examined in this study can be formulated as follows:

- How is the implementation of the resolution of disputes against the object being measured against the border returns of the object boundary in Tegal?
- What is the role of the national land Agency (BPN) in the implementation of dispute resolution against objects that are measured against the border returns of the object boundary in Tegal?
- What are the obstacles and solutions in the implementation of the resolution of a dispute taking action against objects that are measured against the border returns of the object boundary in Tegal?

Research Methods

The method that was used in this study was the juridical sociolegal approach method. This approach was conducted to understand the law in the context of the society; that is an approach that is non-doctrinal. Through this approach, the object of the law will be meant as part of the social subsystem between the subsystem-other social subsystems.⁶ According to F.X. Adji Samekto, Social legal studies conceptualize law as the norm and simultaneously as reality. The reviewer in socio-legal studies demands the mastery of the doctrines of law which have been established within the jurisprudence itself (as a priori and not free of sciences), and the examination of the theories of the operation of the law, as a consequence which sees law as reality.⁷

A research based on science of law is related to the system of norms or Regulations when interacting in the Community (Law In Action) by using the theories of law. It has worked in the community as the process of its analysis, for example the theory of legal certainty, legal, public policy benefits.

The Socio Legal of legal research is used in the study because in this research, it will be presented about dispute resolution against the objects that are measured by the border of the refund of national land against a neighbor's boundary object in Tegal. The data were qualitative data. There are many ways of thinking analysts to look at

⁵ Andi Muttaqin 2008 *Penyelesaian Sengketa Pertanahan Di Kragilan Kecamatan Kadipiro Oleh Kantor Pertanahan Kota Surakarta* Sebelas Maret University Press Surakarta p. 69

⁶ Widhi Handoko *Contoh Penulisan Proses Penelitian Dalam Metode Penelitian*.
<http://widhihandoko.com/?tag=metode-penelitian-kualitatif>

⁷ Anis Mashdurohatun, Redyanto Sidji, Gunarto and Mahmutarom, *Factors Causing Banking Cyber Crime in Indonesian, International Journal of Economic Research*, Volume 14 Number 15 2017, p.295

the law as the hooks of the logical assignment between norms and between the existing sections in the law orderly, any legal term used is always defined explicitly.⁸ Qualitative observation types and how that is used as a type of observation that starts from the workings of the descriptive, focused observation and then ultimately selected for observation.⁹

2. Result And Discussion

2.1. The Implementation of The Disputes Settlement Against the Object being Measured Against a Border Returns the Object Boundary Neighbors in Tegal

The dispute settlement of land through the Program Operation has been completed by the dispute in Tegal District Land Office implemented with the following stages:

- Preparation Stage
 - Doing an inventory and identification of disputes, conflicts and the matter of land which has been set as the Target of the operation (TO); In order of identification data, then it must be aware of the object, subject, typology of problems, and the root of the problem in order to more clearly determine the steps that need to be taken in settlement efforts.
 - Object of dispute;
 - Subject of Dispute
 - Typology of the problems
 - ♦ Disputes of the mastery and ownership of land that is a difference of perception, values or opinions, interests regarding the status of dominion over the land that is not or not yet attached the rights (the ground state), as well as who has been attached the rights by the certain parties.
 - ♦ The disputes of the boundaries or the location of the plots of land is a difference of opinion, the value of the interest regarding the layout, borders and vast areas of land. That is recognized as one of the parties that have been established by the national land Agency of the Republic of Indonesia and still in the process of determination of the border.
 - The root of the Problem
 - ♦ The issue of mastery and possession based on evidence/sockets of different rights/overlapping the base rights.
 - ♦ The same plots of land measuring appealed by another party with proof of ownership of the other and measured and then published a letter progression.
 - Compiling time schedule of operations;
 - Carrying out meeting coordination unit associated with the operating *timtas*;
 - Preparing software and hardware (letters/secretarial, administration, personnel and budget)
- Implementation Stage

⁸ Esmi Warrasih 2005 *Pranata Hukum Sebuah Telaah Sosiologis* Penerbit Alumni Semarang p. 1

⁹ Sanafiah Saisal Faisal 1990 *Penelitian Kualitatif : Dasar-dasar & Aplikasinya* Asah Asih Asuh Foundation Malang p. 80

- Doing Juridical Research/Administration and/or physical;
- Doing a conduct studies and analyses cases;
- Doing an internal/external coordination;
- Doing the title matters;
 - Basic Degree Matters, namely the existence of a complaint
 - The Chronological History of the land
 - Conclusion
 - There is a need to be immediate a mediation between the parties in dispute.
 - Follow-up
 - To the making of an invitation to mediation the parties in dispute and related units.
- Perform mediation and other forms or settlement;
- Consolidation Stage

At this stage, the operation has been completed by the team Tegal Dispute to make a report upon the implementation of the Operation has been completed the dispute (OPSTASTA), i.e.:

 - Daily Books Activities Journal OPSTASTA
 - 2 OPSTASTA Control Books
 - Book Title of case OPSTASTA
 - OPSTASTA Implementation progress report
 - Final report OPSTASTA
- Implementation Monitoring and the Supervision

The phase of supervision and dispute resolution Operations has been completed through the Program of land Disputes (OPSTASTA) in the Office of land Bordering County specifically for this case was carried out in stages in accordance with PO OPSTASTA, also refers to the provisions of Resolution Juknis of land and other regulations in the field of land. Thus, the dispute settlement of land through the Program Operation has been completed the dispute (OPSTASTA) in the Office of land Bordering Counties, especially this stage was carried out in a systematic, consistent, organized within just 1 month, 12 days i.e. faster than the three-month time period specified in the time schedule.

2.2. The Role of the National Land Agency (BPN) in the Implementation of Dispute Settlement against Objects that are Measured Against the Border Returns the Object Boundary in Tegal

In the regulations of the Republic of Indonesia Land Agency Chief No. 4 of 2006 JO national land Agency Chief regulations of the Republic of Indonesia No. 5 of of 2006 on section 13. It stated that the function of BPN in order to handle the dispute, conflict and things (or SKP) land is to realize the policy of land for Justice and welfare of society. BPN was an instrumental in addressing and resolving the matter, problems, disputes, and conflicts across Indonesia systematically.

Development goals in the area of land are to provide the realization of land orderly, included:

- The Land Law Code of conduct is a lot of awful that going on mastery of the possession and the use of land by persons/legal entities that violate the provisions of the agrarian legislation in force, therefore there was a need to be taken on the measures:
 - To hold an outreach/explanation to the community regarding the Orderly Laws of land in order to achieve legal certainty that includes curbing mastery and

landholdings based on Agrarian Law Regulations in force. In terms of the implementation of the agriculture law code of conduct already covered by the implementation of the orderly documentation and administration of land.

- To concern the legal sanctions violations-violations
- To complete the legal regulations in the field of agriculture
- To improve the internal auditing in the field of implementation of the agriculture.
- To take stern action against the person who deliberately do abuses.
- The Orderly administration of the Land recently, it caused the existence of the terrace that was still lamenting over their fate from the public, about dealing with the land authorities, particularly in terms of:
 - The Ministry of affairs pertaining to the land is still relatively straightforward and cost prohibitive.
 - There is still an occurrence of the existence of additional

It was called an orderly Administration of land is a State where:

- For each field has been available about aspects of physical size, type of use, the rights mastery, and the certainty of the law administered in Land information systems.
- There is a mechanism of the procedure, the work of the Ministry in the areas of land that are simple, quick and bulk, but guaranteeing legal certainty which was carried out in an orderly and consistent.
- The storage of files that are connecting to the granting of rights and utilization of land is carried out in an orderly, regular and secure the security.
- The Orderly used by Land until now, there were still many lands that have not been tried/used in accordance with ability and ownership, so it was the contrary to the social functions of the land itself. Thus, it was called as the Orderly use of Land in a State by the criteria:
 - The land has been used in a sustainable, harmonious, and balanced. In accordance with the potential to the various activities of life and hope needed to support the attainment of National Goals.
 - The land is used in urban areas that can create a safe, orderly, smooth, and healthy.
 - There is no formation of interest between sectors in the ownership soil system.
 - The Orderly maintenance of Land and the environment is the Land of chess Orderly fields of land policy that made "runway", while "goal" to make reordering the use and possession of the land as well as specialized programs in the field of agrarian business to improve the ability of farmers who didn't have or have a very narrow ground. National Land Agency tasked to manage and develop the land administration includes settings of the use, possession or mastery, and land management (P4T), mastery of the rights over the land, the measurement and registration of land and others. They were concerned with the problem of land, so that the very active role in the BPN embodies the use of land for the prosperity of the people that carry out its functions in the field of land as a non-Departmental assistant the President.

3.3. The Obstacles And Solutions In The Implementation Of The Dispute Settlement Which Taking Action Against Objects That Are Measured Against A Border Of Returns To The Object of Boundary Neighbors in Tegal

The obstacles in the process of dispute resolution border, i.e. no presence of landowners bordering the disputed land-related refunds. With the efforts of the Office Land, its presence the officers of the village to witness the presence of the grant of land at the site, and notify the owner of the land next to it for the present. However, at the time had a visit to locations not the existence of the present village of apparatus. So that it will affect the measuring of the interpreter's Office delayed the implementation of measurements. If the parties concerned cannot attend, then the officer will do the measuring rescheduling to carry out repeated measurements of the land ownership boundaries. If there is already a rescheduling would be but the parties still do not present, then the clerk will give you a maximum time border of three (3) months.

Head of the national land Body Measurements, the measurement of land providing services such as:

- The measurements for the purposes of the repayment Borders
- The measurement in the framework of the activities of Procurement/inventory of Land
- A measurement at the request of Agencies and/or community to know the land area
- The measurement in order to Manufacture the complete Situation Map (Topographic)

In administering community service, Office of land wide open the doors to what is wanted, but even there the applicant is not able to show the desired boundaries that repeated measurement basis related disputes Returns the border. The fact that often occurs in the applicant disputes taking border, because the land boundaries do not fit with neighbors border yet. They cannot show where the location of the boundaries of their lands or in the designation of the boundaries of land assets. It is not obvious or even different from the bordering neighbors' description. Therefore, the BPN in carrying out the land of boundary dispute resolution, it should bring the landowners whose land directly adjacent to the ground. The Land Office cannot conduct repeated measurements.

The border of the land in question in those landowners that borders directly with the land is not present or is not yet the existence of a deal. In addition to the constraints mentioned above, other constraints lead to a resolution that cannot be made the land boundary dispute appealed. The complicated bureaucracy and cumbersome as well as the No. of behavior of persons who take advantages. In addition, the constraints on costs, which do many people consider expensive. This kind of negative impact conditions, because the public into apathy in taking care of the certification of land registration, land and other things pertaining to the Land Commission at the national land Agency Office. Reason for refund borders or Reconstruction of this border, due to the occurrence of changes in the boundaries of plots of land (p) or even the boundaries of the field is lost. As a result the broad borders and does not correspond to the initial size of the data collection, so that it needs a restart or measurement of Repeated Boundary Reconstruction based on Image Measurement (GU) long. This measurement is done with consideration of legal certainty and the protection of the law against the subject and object of land rights. Based on the government regulation No. 24 of 1997, legal certainty is legal certainty regarding the subject

Legal certainty regarding land rights is the object of certainty regarding the location, boundaries, and spacious. The petition for reissue, measurements cannot be done if there is evidence in the designation of the boundaries of land owned. So in their implementation based on regulations, should bring the adjacent landowners, new

measurement is done. In addition to the above, there is barriers other barrier, e.g. yet agreements against the installation of the sign borders. This is done to avoid conflicts that arose after he had done the measurements by BPN. The agreement or consent of the parties concerned is essential in the framework of the implementation of dispute resolution returns the border of land ownership. The parties include the holders of land rights whose land borders the land of repeated measurements that will be done to its border. The holder of the rights over the land whose land will be carried out repeated measurements, including heirs and relatives are concerned.

3. CONCLUSION

Based on the results of this research on the resolution of disputes against the object measured returns the border by BPN against Tegal in the boundary object, then the author concluded as follows:

- A form of legal protection, for Government followed up the misappropriation because of the negligence at the time of measurement wide plots of land for the creation of a letter, then the measurement of legal protection used is the preventive protection of law, where the subject of the law was given the opportunity to file an objection or opinion. The goal is to prevent the occurrence of a dispute. The result of the error can be on the plaintiff to sue private responsibly. As it pertains to the functionaries approach or the behavior approach of a person in the administration of law. Responsibility with regard to the private of mal-administration plaintiff in the use of the authority or public service. Liability plaintiff civil litigation could be a liability when there was a personal element to sue of mal-administration. When the certificate was published by not following the established procedures of State and then there was an error, then the plaintiff's responsibility was private. Hence, it did not comply with the general principle of good governance, which are listed in the Article 10 Legislation No. 30 of 2014 Of Government Administration. If the means of preventing law was not fruitful, then the repressive law facility could do. The repressive laws aimed to resolve the dispute, it was different from a preemptive attempt to prevent the disputes, where the repressive law of the dispute could not be prevented. So it could be completed at the Administrative Court of the State.
- Based on the Regulations of the head of BPN No. 3 Of 2011 about the Management Assessment and handling Cases of land. In case the role of LOLITA of dispute settlement land is:
 - The national land Agency of Tegal compulsory implementing a court ruling on dispute resolution and conflict of land that has been gaining strength.
 - The conflicts and resolution of the dispute out of court in the form of cancellation of land rights, soil registration certificate, published the book/letter/decision of the administration of land.
 - The National Land Agency of Tegal has some criteria of land case against the referred has been completed as mentioned in article 72 of the regulation the head of BPN RI No.s 3 Of 2011.
- The applicant could not show the boundaries of the land because it was not able to do dispute resolution border. In addition, becoming an obstacle in the land boundary dispute had been yet agreements against the installation of the sign borders among the parties concerned in which those who have an interest to the

ground. Of course it would be difficult for the officer in carrying out its task of BPN's measurement.

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