

Judges' Considerations In Deciding The Case Of Plasma Farmers Of Kud Minanga Ogan Oil Palm Plantation (Case Decision Number 38/Pdt/2021/Pt.Plg)

Farna Yunita^{1✉}, Khalisah Hayyatudin², Helwan Kastr³, Abdul Latif Mahfuz⁴

^{1,2,3,4}Magister Hukum Universitas Muhammadiyah Palembang, Sumatera Selatan Indonesia

Corresponding Author: Farnayunita65@gmail.com ✉

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Abstract: Consideration of judges is one of the components that is very important and necessary to make a decision on a case because the consideration is considered as the responsibility of judges to the community so that the decisions they make are considered objective by the community. The Village Unit Cooperative (KUD) Minanga Ogan has established cooperation with the Core Plantation Company, PT Minanga Ogan Plantation. It is known that PT. Minanga Ogan Plantation invaded the land owned by the Village Unit Cooperative (KUD) without the right and unlawful to control the land and establish a Palm Oil plantation on land owned by Aquo and for his actions brought harm to others therefore, in essence the Village Unit Cooperative (KUD) demands that PT. Minanga Ogan Plantation be declared to have committed an unlawful act that harms him and demands that he pay a sum of compensation as specified in the petitidum of his lawsuit. This research uses Normative legal research methods, research in this writing is done by means of literature study (library Research). Legal materials in this study secondary data and primary data. Primary data is the KUD Management and Law Enforcement Apparatus while secondary data in the form of Law No. 5 of 1960 on Basic Agrarian, Article 33 Paragraph (3) on land and Law No. 48 of 2009 on the power of acceptance.

Abstrak: Pertimbangan hakim merupakan salah satu komponen yang sangat penting dan diperlukan untuk membuat putusan pada suatu perkara karena pertimbangan dianggap sebagai pertanggung jawaban hakim pada masyarakat sehingga putusan yang mereka buat dinilai objektif oleh masyarakat. Koperasi Unit Desa (KUD) Minanga Ogan telah menjalin kerja sama dengan Perusahaan Perkebunan Inti, PT. Perkebunan Minanga Ogan. Diketahui bahwa PT. Perkebunan Minanga Ogan menyerobot tanah milik Koperasi Unit Desa (KUD) tanpa hak dan melanggar hukum untuk menguasai tanah dan mendirikan perkebunan Kelapa Sawit diatas tanah milik Aquo dan atas perbuatannya membawa kerugian bagi orang lain oleh karena itu, pada pokoknya Koperasi Unit Desa (KUD) menuntut agar PT. Perkebunan Minanga Ogan dinyatakan melakukan perbuatan melanggar hukum yang merugikan dan menuntut agar membayar sejumlah ganti kerugian sebagaimana ditentukan dalam petitidum gugatannya. Penelitian ini menggunakan metode penelitian hukum Normatif, Penelitian dalam Penulisan ini dilakukan dengan cara studi kepustakaan (library Research). Bahan hukum dalam penelitian ini data sekunder dan data primer. Data primer yaitu Pengurus KUD dan Aparatur Pengegak Hukum sedangkan data sekunder berupa Undang-Undang No. 5 Tahun 1960 tentang Pokok Agraria, Pasal 33 Ayat (3) tentang pertanahan dan Undang-Undang No 48 Tahun 2009 tentang kekuasaan kehakimaan.



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INTRODUCTION

Land is a natural resource that is very important for human survival. Historical reality shows that human survival both as individuals and as social beings always need land to meet their needs by making relationships and utilizing natural resources in an area. (Mandala & Suarjana, 2021) then the Government is authorized to regulate the Land sector in accordance with the mandate of Article 33 Paragraph (3) of the 1945 Constitution which states that "The land, water and natural resources contained therein shall be controlled by the State to be used to the greatest extent for the prosperity of the people". then followed up with Law Number: 5 of 1960 concerning Basic Agrarian Law (UUPA). Article 33 Paragraph (3) is related to the function of land as stipulated in Law Number. 5 Year 1960 Article 6 states "All Land Rights Have a Social Function". Since the establishment of KUD Minanga Ogan in 1993, Village Unit Cooperative (KUD) Minanga Ogan has been cooperating with the Core Plantation Company, PT. Plantation Minanga Ogan based in Palembang (Now based in Jakarta). As the letter of agreement between PT.Perkebunan Minanga Ogan with the Village Unit Cooperative (KUD) Minanga Ogan in the framework of the development and management of oil palm plantations with the pattern of Anak Bapak Angkat (ABA) each Letter of Agreement.

Oil palm plantation business partnership between oil palm plantation plasma farmers with Village Unit Cooperative (KUD) Minanga Ogan refers to the provisions of Article 1320 of the Civil Code on the validity of the Agreement, namely the existence of an agreement for those who bind themselves, the ability of the parties to make an agreement, a certain thing and a halal cause. (Imron, 2015) In connection with that, PT. Palm Oil Plantation has accepted the transfer of land clearing development rights and land management of KUD Minanga Ogan based on the Deed of Granting Mortgage Rights (APHT) on the certificate of ownership of KUD Minanga

Ogan Plantation dated October 10, 1994 and September 04, 2010.

In relation to land disputes, almost every year they increase and occur in almost all regions in Indonesia, both urban and rural. Land disputes are disputes that occur between two or more parties who feel aggrieved by these parties for the use and control of their land rights which are resolved through deliberation or through the courts. The judge's consideration is one of the components that is very important and necessary to make a decision in a case because the consideration is considered as the judge's accountability to the community so that the decisions they make are considered objective by the community assemblies. The panel of judges must be able to determine a decision that reflects legal certainty, justice and expediency, which means that the decision that has been decided by the panel of judges does not only contain aspects of legal certainty and justice, but the decision can provide benefits to the community so as not to cause unrest for the community. (Muhammad, 2015)

In case No. 38/PDT/2021/PT.PLG. Idrus bin H. Usman Emma (Plaintiff) argued that there was an unlawful act committed by PT. KUD Minanga Ogan plantation (Defendant) for grabbing land located in Pematang air alim raja Gunung Meraksa Lubuk Batang Subdistrict, Ogan Komering Ulu Regency, with an area of 50.15 Ha. Therefore, the plaintiff basically demands that the defendant be declared to have committed an unlawful act to his detriment and demands that the defendant pay a sum of compensation as specified in the petitum of his lawsuit. on Thursday, December 3, 2020. The panel of judges has examined and scrutinized the case file and has listened to witness testimony regarding the object of dispute in case decision Number 38/PDT/2021/PT.PLG, the panel of judges stated that the lawsuit could not be accepted on the grounds that the lawsuit was

blurred (obscure libel). therefore the boundaries of the object of dispute in the Aquo case were different at the time of the review of the object of dispute (Local Inspection).(Faisal Siregar, 2023)

There are several previous studies that raised the consideration of judges, analysis of judges' considerations in imposing crimes on those who clear land by burning (study of decision Number 623/PID.B/2019/PN.BTA) research from Herlina Manulang (2020) discusses that the judge as the one who tried the defendant in Esmaya Saputra who cleared land and burned because his actions violated the provisions of the applicable laws in this case the public prosecutor gave a decision that the defendant committed a legitimate mistake accompanied by criminal charges. Pandu Dewanto's research (2020) on Reconstructing the judge's consideration of civil dispute decisions based on the value of justice, this research states that the principle of the judge's consideration of the parties' dispute must also comply with the first principle, namely the almighty God, (Dewanto, 2020b) with the reconstruction of values in Article 5 paragraph (1) of Law Number 48 of 2009 and the Last Research I Kadek Ilo Adnyana (2020) in the research of the judge's consideration process in deciding the case of canceling the land sale and purchase dispute at Singaraja class 1B district court (case study of Court Decision Number: 228/PDT. G/2015/PN.SGR). This research states that the act of sale and purchase in the transfer of land rights is the transfer of land from the seller to the buyer, this is in accordance with the legal subject. (Imron, 2015)

METHODS

Normative Juridical Research in the context of this writing will be carried out through a Library Research approach. This approach was chosen because it allows us to summarize the opinions and concepts of

experts who have undergone research relating to legal norms regulated in legislation. This research will utilize secondary and primary data that includes primary and secondary legal materials. Primary legal materials that will be used involve Law No. 5 of 1960 on Basic Agrarian Law, Article 33 Paragraph (3) of the 1945 Constitution on Land, as well as Law No. 48 of 2009 on Judicial Power. Secondary legal materials will provide an in-depth understanding of these primary legal materials, by including the views of legal experts relevant to the object of research. (Muhaimin, 2015)

In addition, this research will also utilize tertiary legal materials, such as general dictionaries, magazines, and scientific journals that have relevance to this research. This approach is expected to produce a comprehensive analysis of the normative juridical aspects relevant to the legal norms in the laws and regulations that are the focus of this research. Through a deeper understanding of expert opinions and interpretation of legal materials, this research is expected to make a valuable contribution in the context of understanding and application of the law.(Jonaedi Efendi, 2018)

RESULTS AND DISCUSSION

1. Consideration of Judges in Deciding Case Number 38/PDT/2021/PT.PLG Between Plasma Farmers Participants of KUD Minanga Ogan and PT. Minanga Ogan Plantation, Ogan Komering Ulu Regency

The results of this study are based on secondary data, namely the determination of Case Number 38/PDT/2021/PT.PLG Parties between Idrus Bin Usman Ema as the Plaintiff and the Village Unit Cooperative (KUD) as the Defendant. The case in the lawsuit that was registered at the Baturaja Court Registrar on January 24, 2020 in Case Register Number 8/PDT.G/2020/PN.BTA that the Plaintiff is the rightful owner of the land, the land was obtained from hereditary inheritance, the land was controlled without rights and unlawfully by the Minanga Ogan Village Unit Cooperative (KUD) has controlled the land until now without

compensation for that, the Plaintiff has sent a summons 3 (times) to the Defendant to resolve the problem, This lawsuit has been filed (approximately twenty-two years) therefore the Plaintiff is waiting for his rights to be granted temporarily but the Defendant has obtained a large profit from the Palm Oil Plantation which is worth Trillions of rupiah but on the other hand the Plaintiff has suffered structural losses and poverty because he lost his livelihood as a source of life from the land that was illegally controlled by the Defendant, to ensure the implementation of the decision the defendant must be burdened with dwangsom of Rp. 10,000,000 for each delay. After the examination of the case, which includes the process of filing the Plaintiff's lawsuit, the Defendant's Answer, the Plaintiff's Replication, the Defendant's Duplication, the local examination/dicente, Evidence and conclusions submitted by both the Plaintiff and the Defendant are completed and the parties to the case have nothing more to say, the judge will render a decision on the case.

The judge's consideration is one of the most important aspects in determining a judge's decision that contains justice and legal certainty and contains benefits for the parties concerned so that the judge must be thorough, good and careful in addressing a case. in connection with that, the judge's consideration requires proof, where the results of the evidence can be taken into consideration by the judge in deciding the case. Evidence is an aspect of the process of disclosing facts that state that a legal event has actually occurred.(Suadi & Candra, 2016)

Legal events that have occurred have juridical consequences, namely a legal relationship that is the basis for the rights and obligations of the parties. The disclosure of facts can be done by actions, statements, writings, documents, testimony, or electronic mail. The question and answer between the parties or between the parties and the Panel of Judges in front of the court is a form of the process of disclosing facts, namely to convince the panel of judges that a legal event has actually occurred which gives rise to rights and obligations for the parties to the case.(Dewanto, 2020b)

The disclosure of the facts as stated above creates the following types of evidence.

- a. Act, e.g. making a contract
- b. Statement, for example the acknowledgment stated on the receipt letter.
- c. Writing, for example letters (correspondence).
- d. Documents, for example notarial deeds.
- e. Testimony, e.g. seeing and hearing the events themselves.
- f. Electronic mail, e.g. ATM receipt.

Therefore, the decision of the Court of Appeal in the case between plasma farmers participating in KUD Minanga Ogan and PT Minanga Ogan Plantation (Case Number: 38/PDT/2021/PT.PLG) is related to the Decision of the District Court of First Instance (Case Number: 8/PDt.G/2020/PN BTA) in which the legal considerations of the District Court of First Instance in examining and adjudicating this case, among others, state:

Considering, that the Panel of Judges considers the Plaintiff's power of attorney, whether it meets the requirements as a power of attorney to litigate in the District Court as stipulated in the Circular Letter of the Supreme Court of the Republic of Indonesia Number 6 of 1994 dated October 14, 1994 concerning the requirements of a Special Power of Attorney.

Considering, that after examining the power of attorney made and signed by the Plaintiff on November 26, 2019, the power of attorney does not mention who is the Plaintiff or Defendant or in the power of attorney does not mention the identity and position of the parties, even though the power of attorney requirements described in SEMA Number 6 of 1994 are cumulative.

Considering, that based on the power of attorney made and signed by the Plaintiff on November 26, 2019, it is also known that the power of attorney does not mention the relative competence of the District Court where the power of attorney is used to represent the interests of the power of attorney.(Panggabean, 2010)

Considering, that in Supreme Court Decision Number 3412 K/Pdt/1983 dated August 24, 1983 which considers a special power of attorney which only mentions the party to be sued, does not meet the formal requirements as a special power of attorney, because it is contrary to the provisions of Article 123 Paragraph (1) HIR / Article 147 RBG, Therefore, the special power of attorney is invalid as well as Supreme Court Decision Number 34/10 K/Pdt/1983 dated March 9, 1985 explaining that a power of attorney that does not mention the party to be sued and the object of the case, is invalid as a special power of attorney, therefore, the lawsuit filed and signed by the power of attorney is invalid and the lawsuit is declared unacceptable. Similarly, Supreme Court Decision Number 57 K/Pdt/1984 dated May 1, 1985 stated that the power of attorney given by the plaintiff to the power of attorney, in which there is no mention of the party or person to be sued, causes the power of attorney to not meet the requirements of a special power of attorney required by law, therefore the lawsuit cannot be accepted.

Considering, that because the special power of attorney dated November 26, 2019 used by the recipient of the power of attorney to make and sign a lawsuit and then register the lawsuit at the Registrar of the Baturaja District Court, it turns out that it does not mention the identity and position of the parties and does not mention the relative competence in the District Court where the power of attorney is used to represent the interests of the power of attorney, thus there are 2 (two) requirements for a special power of attorney that are not fulfilled, because there are 2 (two) requirements of a special power of attorney that are not fulfilled, resulting in a special power of attorney with formal defects by itself the position of the power of attorney as a formal party representing the power of attorney is invalid, so that the lawsuit signed by the power of attorney is invalid and not binding, the lawsuit he filed cannot be accepted.

Considering that because the special power of attorney is invalid, the Panel of Judges no longer considers the material or subject matter of the dispute between the Plaintiff and the Defendants, including

evidence, both letter evidence and witness evidence submitted by both parties.(Imron, 2015)

Considering, that based on the aforementioned explanation, the Panel of Judges concludes that the Plaintiff's claim must be declared inadmissible.

Considering, that because the Plaintiff's claim is declared unacceptable, the Plaintiff must be ordered to pay the costs incurred in this case.

Furthermore, the District Court of Appeal in examining and adjudicating this case, Case Number: 38/PDT/2021/PT.PLG, its legal considerations state that:

Considering, that after the panel of judges of the Court of Appeal has examined, examined and carefully examined the appeal memory submitted by the legal representative of the appellant originally the Plaintiff and the counter-appeal memory submitted by the legal representative of the appellants originally the Defendants, the panel of judges of the appellate level can agree and justify the decision of the first level judge, therefore the legal considerations have contained and described precisely and correctly all the circumstances and reasons that form the basis of the decision and are considered to have been included in the appeal decision.(Kansil & Saputra, 2023)

Considering that the reasons for the appeal from the appellant, the Plaintiff, both in the Expression and in the main case, the Panel of judges at the appellate level no longer need to consider because what is stated by the attorney for the appellant, the Plaintiff, in the appeal is only a repetition of what happened in the trial process at first level and there are no matters that need to be considered by the appellate judges because they have all been considered completely, precisely and correctly by the Panel of judges at first level.(Husni Abdullah Pakarti et al., 2023)

Considering, that from the description of the considerations of the panel of judges at the appellate level mentioned above, it is concluded that the reason for the appeal from the legal counsel of the appellant originally the Plaintiff must be rejected in its entirety.(Pertanahan et al., 2023)

Considering, that thus the legal considerations of the first level judge are

taken and used as the basis for the consideration of the decision of the panel of judges at the appellate level, so that the decision can be maintained at the appellate level and therefore must be strengthened.

Considering, that because the appellant originally the Plaintiff remains on the losing side, the appellant originally the Plaintiff is ordered to pay court costs in both levels of court which in the appeal level the amount of costs mentioned in the amendment to this decision.(Dewanto, 2020a)

Considering Law Number 49 of 2009 concerning General Courts and Law Number 48 of 2009 concerning Judicial power, Rbg, and other regulations related to this case:

JUDGE

Accept the Appeal Petition from the appellant originally the Plaintiff. Affirm the decision of the Baturaja District Court with Decision 8/PDT.G/2020/PN Bta dated December 3, 2020 which is appealed.

2. The Decision of the Appeal Level Case Number 38/PDT/2021/PT.PLG Has Caused Justice for Palm Oil Plantation Plasma Farmers of KUD Minanga Ogan, Ogan Komering Ulu Regency.

Decision of the Palembang High Court at the Appeal Level Case Number 38/PDT/2020/PT.PLG Jo Decision of the District Court at the First Level Case Number 8/PDT. G/2020/PN BTA is considered not at all reflecting justice for the defendants, especially for the plasma farmers of the Village Unit Cooperative Oil Palm Plantation (KUD) of Ogan Komering Ulu Regency, because the Palembang High Court and the Baturaja High Court in examining and deciding the case in their legal considerations have not concerned the subject matter of the case or the material of the lawsuit, but what is considered outside the subject matter of the case regarding the special formal lawsuit requirements in this case only concerns the validity of the Special Power of Attorney (Formil Defect).(Manshold et al., 2023)

In the special power of attorney register Number: 15/SK/Pdt/2020/PN. BTA is considered invalid and legally flawed, not fulfilling the formal requirements for the

validity of a special power of attorney because in the special power of attorney the Plaintiff does not mention the identity and position of the parties drawn as Defendants. In addition, the object of the land disputed by the Plaintiff was unclear, where in the special power of attorney the Plaintiff stated that the disputed land area was 50.15 hectares, which was different from the Plaintiff's lawsuit which stated that the disputed land area was 50.15 hectares. These conditions are cumulative so that if one of the conditions is not met, the special power of attorney is invalid and legally defective. so that the Plaintiff's claim must be declared unacceptable (Niet Ont Vanklijke Verklaard). (Muklis, 2023)

Based on the provisions of the formal requirements of a lawsuit, apart from concerning the validity of a special power of attorney, it also concerns the formal lawsuit, namely as follows:

a. Incomplete Defendants (Plurium Litis Consortium)

That Defendant I KUD Minanga Ogan domiciled in Baturaja as a Cooperative Production of Oil Palm Plantations whose land is owned by members of the KUD certified. KUD Minanga Ogan was established based on the Deed of Establishment issued by the Department of Cooperatives Small and Medium Entrepreneurs of the Republic of Indonesia Number: 003297/BH/XX dated September 15, 1993 and the decision letter of the head of the regional office of the Department of Cooperatives on the ratification of the Cooperative as a legal entity dated September 15, 1993. Therefore, the disputed object land in the aquo case until now is still being cultivated and managed by the Core Plantation Company PT. Minanga Ogan Plantation, so the management party in this case PT. Minanga Ogan Plantation should be placed as the Respondent.

b. The Plaintiff's claim is vague and unclear (Obscuur Libel)

That the Plaintiff's lawsuit states the boundaries of the land as follows:

- West bordering with : Ahyar, Win PB
- East bordered by: Ibrahim

- North bordered by: Sohri, Ibrahim, Deni
- South bordering with : Win PB, Air Alim Raja.

That obviously in mentioning the boundaries of the disputed land, the Plaintiff has made a mistake by listing the boundaries based on the personal name of a person (person) which should be the boundaries of the land based on the object of the owner's condition. In addition, the boundaries of the disputed land mentioned by the Plaintiff are not clear because based on the facts in the field / location globally the boundaries of the current land, west, north, east and southern land, bordering the Oil Palm plantation owned by members of the Minanga Ogan Cooperative. Therefore, with the unclear boundaries of the object of dispute, the Plaintiff's claim contains a formal defect and must be declared unacceptable.

CONCLUSION

Consideration of the Judge in deciding case Number 38/PDT/2021/PT.PLG between plasma farmers participating in the Minanga Ogan KUD and PT.Perkebunan Minanga Ogan, Ogan Komering Ulu Regency, Idrus Bin H. Usman Emma as the Plaintiff is known to have collaborated with the Defendant, namely the Village Unit Cooperative (KUD), the Plaintiff and the Defendant established cooperation on October 10, 1994 and on September 04, 2010 as stated in the letter of cooperation agreement between the Plasma Farmers and the Minanga Ogan Village Unit Cooperative (KUD). The Plaintiff's land has been under the control of the Defendant since 1997 and after this lawsuit was filed (approximately twenty two years) the Plaintiff waited for his rights to be granted while the Defendant continued to make large profits from the Palm Oil Plantation worth trillions of rupiah, However, on the other hand, the Plaintiff suffered structural losses and poverty. and the Decision of the Palembang High Court Case Judge at the Appeal Level Case Number 38/PDT/2020/PT.PLG Jo District Court Decision at the First Level Case Number 8/PDT. G/2020/PN BTA is considered not at

all getting justice for the plasma farmers of the Minanga Ogan Oil Palm Plantation, because the Palembang High Court and the Baturaja High Court in examining and deciding the case in their legal considerations have not concerned the subject matter or the material of the lawsuit but what is considered outside the subject matter of the special formal lawsuit requirements in this case only concerns the validity of the Special Power of Attorney (Formil Defect), in addition to the unclear object of land disputed by the Plaintiff The requirements are cumulative so that if one of the conditions is not met, the special power of attorney is invalid and legally defective. Therefore, the Plaintiff's claim must be declared unacceptable (Niet Ont Vanklijke Verklaard).

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