

JURIDICAL ANALYSIS ON DISPUTE RESOLUTION IN CASES OF UNLAWFUL ACTS



Received: 1 June 2024; Revised: 12 July 2024; Published 25 August 2024

DOI [10.33603/responsif.v15i2.9552](#)

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Abstract. The primary purpose of the law is to realize justice; Aristotle said that justice is to give everyone what is his right. Legal facts show difficulties in resolving disputes, such as settlements that are not under the law and things considered unfair. For example, the plaintiffs felt the settlement was unfair in settling disputes concerning unlawful acts between farmers and PT PG Rajawali II. This study aims to 1) analyze the dispute resolution in the case of unlawful acts and the efforts made to resolve disputes in the case, and 2) the impact on the plaintiffs who dispute in the case using the normative juridical method with the type of qualitative research. The settlement of disputes in the case of unlawful acts is analyzed using the theory of justice; the dispute settlement efforts are not by the law and are considered unfair by the plaintiffs because what they are entitled to is not fulfilled. The plaintiffs did not receive compensation due to the defendants' destruction of land. They did not receive replacement land due to land included in the extension of the HGU, which resulted in the loss of land that the plaintiffs could use for economic activities.

Keywords: Dispute Resolution, Justice, Unlawful Acts

A. Introduction

Research Background

Aristotle formulated justice by saying that justice is by giving everyone what is his right.¹ Law plays a role in regulating the balance between the rights and obligations of individuals or groups, dividing authority, and how to solve legal problems.² Solving legal problems is the duty of judges, based on Chapter 1 Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, judges are independent judicial power officials to organize the judiciary to uphold law and justice based on Pancasila and the 1945 Constitution. Judges have the freedom to resolve disputes.³ according to their perceptions and interpretations of disputes, based on Chapter 5 Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, judges are obliged to explore, follow, and understand the values of law and justice that live in society.

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¹ Amin, Subhan, "Justice in the Perspective of Legal Philosophy Towards Society", *El-Afkar*, 2019: p. 6.

² Nuryati, Yati, *Introduction to Law*, Bandung: Nusa Media Publishers, 2020, p. 64.

³ Hariyanto, Diah R. S., Yustiawan, Dewa G. P., "Paradigm of Restorative Justice in Judges' Decisions", *Kertha Patrika*, (2020): Vol. 42 No. 2 p. 184.

Legal facts show difficulties in resolving disputes, such as settlements that are not by the law and things considered unfair. For example, in a dispute over unlawful acts regarding land destruction between farmers and the defendants, PT PG RAJAWALI II was the intervention defendant. The problem in this case is that the dispute settlement is unfair because the plaintiffs feel that the dispute's settlement is unfair because their rights are not fulfilled. This study aims to 1) analyze the dispute resolution in the case of unlawful acts and the efforts made to resolve disputes in the case, 2) the impact on the plaintiffs who dispute in the case.

B. Literature Review

Civil Procedure Law

Civil Law is a regulation that regulates rights and obligations, material, and their relationship with each other. Judging from its function, civil law is divided into two, namely Formal and Material Civil.⁴ Formal Civil is the implementation or event of a material Civil Servant. The implementation is carried out in the Civil Court in the Court. Several experts expressed their opinions regarding the Civil Procedure Law. For example, Wijono Prodjodikoro said that civil procedure law is a series of regulations containing how people act in front of the court and how the court implements civil law regulations.⁵ Then Sudikno Mertokusumo said that civil procedure law is a legal regulation that regulates how material civil law is obeyed through the mediation of judges.⁶ Thus, the Civil Procedure Law is a law that regulates how the Civil Court is implemented, starting from filing a lawsuit to examining and deciding a civil case by a panel of judges.⁷

Judge's Decision

In accordance with the provisions of Chapter 178 of the HIR and Chapter 189 of the RBg, when the examination of the case in the trial process in court is completed, the Panel of Judges conducts deliberations to determine and take the decision to be handed down. The examination process is considered complete if it has taken the answer stage from the defendant in accordance with the provisions of Chapter 121 of the Civil Rights Act and Chapter 113 of the Civil Code, which is accompanied by a replica of the plaintiff based on Chapter 115 of the Civil Code, as well as a duplicate of the defendant, and continues with the process of proof and conclusion. If all these stages have been completed, the Tribunal declares the examination closed and the next process is to issue or pronounce a verdict. Preceding the pronouncement of the verdict, it is the deliberative stage for the Panel to determine what verdict to impose on the parties to the case. Based on the decision, it is determined with certainty the rights and legal relationship of the parties with the object in dispute.⁸

⁴ Samosir, Djamanat, *Civil Procedure Law: Stages of Settlement of Civil Cases*, Bandung: Nuansa Aulia, 2011, p. 2. ⁵ *Ibid*

⁶ Asyhadie Zaeni, Rahman Arief, Mualifah, *Introduction to Indonesia Law*, Jakarta: Rajawali Pers, 2015, p. 251.

⁷ Samosir, Djamanat, *Op. Cit*, hlm. 4.

⁸ Harhap, M. Yahya, *Op. Sit*, Halaman. 888.

Legal Justice

Aristotle formulated justice by saying that justice is by giving everyone what is his right. Aristotle distinguishes justice into two kinds, namely:

1. *Distributive Justitia*. That is justice that requires everyone to get what their right or allotment is (*suum cuique tribuere*). This ratio is not the same for everyone, depending on wealth, birth, education, ability, and so on. So it is considered fair here if every Person gets their rights or allotments proportionately considering education, position, ability, and so on.
2. *Commutative Justitia*. That is justice that gives everyone the same amount. This means that justitia commutative demands equality; that is, what is fair is when everyone is treated the same regardless of position. Justitia comutativa is classified as a judge's duty, namely the judge's duty to adjudicate the case submitted to him without distinguishing between people (equality before the law).

C. Research Methods

Approach Method Based on the problems researched by the author, the author uses a normative Judicical approach, which is a research approach that examines literature materials to answer formulation problems in research.

In this study, the author uses a type of qualitative research, descriptive research, from the data obtained during the research. The technique used by the author is to clearly describe a condition or position and legal or non-legal propositions regarding how to resolve disputes over unlawful acts.

The object of this study is the case of unlawful acts in decision number 36/Pdt.G/2022/PN. Idm. Analysis of legal materials, namely by using laws and regulations and other official documents that contain legal provisions and using supporting library materials and other supporting data.

The material collection technique reviews library materials and uses supporting data related to the issue or problem being researched. In preparing this study, the method used is Interviews with resource persons with competence related to the object of the issue or problem being researched.

D. Discussion

Dispute Resolution Efforts

Based on Chapter 3 of PERMA Number 1 of 2016 concerning Mediation Procedures in Court, the first settlement of disputes over unlawful acts is carried out through mediation by a mediator judge at the Indramayu District Court Class IB; efforts to resolve disputes through mediation are unsuccessful, dispute resolution efforts are continued in court trials. In the trial, an intervention party volunteered to be the intervention defendant. In the trial, along with the answer of the intervention defendant, he filed a reconciliation lawsuit. The panel of judges, with His legal considerations, granted the reconvention lawsuit from the intervention defendant and rejected all lawsuits from the plaintiffs.

The plaintiffs felt that the decision in the dispute settlement was unfair because what they were entitled to was not fulfilled. In the decision, the defendant intervened to get what was his right, namely the HGU land cultivated by the plaintiffs. However, the plaintiffs did not get replacement land due to the land included in the HGU extension. In addition, the plaintiffs did

not receive compensation due to the destruction of the defendants' land. Ideally, in the justice theory, judges must be able to provide the parties' right to the dispute so that the parties can feel justice. Besides, everyone is equal in the eyes of the law; there needs to be a balance between rights and obligations.

The dispute resolution effort is not in accordance with the law, which reads in Chapter 1, Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power: "Judicial Power is the power of an independent state to hold the judiciary to uphold law and justice based on Pancasila and the Constitution of the Republic of Indonesia of 1945, for the implementation of the Law State of the Republic of Indonesia."

Then, in Chapter 4, Paragraph (2) of Law Number 48 of 2009 concerning Judicial Power, it reads: "The court assists justice seekers and tries to overcome all obstacles to achieve simple, fast, and low-cost justice."

Then in Chapter 5, Paragraph (1) of Law Number 48 of 2009 concerning Judicial Power reads: "Judges and constitutional judges are obliged to explore, follow, and understand the values of law and the sense of justice that live in a society."

From the sound of the Chapter, judges must uphold law and justice. They must help find and provide a sense of justice for the parties to the dispute by excavating, following, and understanding the values of law and the sense of justice that live in society. A sense of justice can be felt when the judge can give what is right for the parties to the dispute. There needs to be consideration regarding the fulfillment of rights and obligations.

Legal Consequences for the Plaintiffs

What is considered unfair in the case of unlawful acts? The plaintiffs feel that the settlement of the dispute is unfair because they do not get what they are entitled to. The fulfillment of the rights of the litigants is the duty of the judge. In the Theory of Justice, rights should be given to everyone entitled to receive them.

As a result of the decision in the dispute settlement, the plaintiffs did not get compensation due to the destruction of land carried out by the defendants because their lawsuit was rejected by the panel of judges in the trial. In this case, the plaintiffs argued that the object of their lawsuit was the destruction that was included in an unlawful act, the destruction activity was the responsibility of the partnership rights holder based on evidence T.1-7.1 to evidence T.1-7.4, namely defendant I to defendant VII based on the legal opinion of Judge Member II. From this information, there is also a legal reason that the result of the act is to compensate for damages. Still, it cannot be proven empirically and based on law. Besides, the value of immaterial losses is reasonable based on the vulnerable time to fight for their rights and the moral burden of the plaintiffs. From this explanation, the plaintiffs are entitled to compensation from the defendants due to the destruction of the land.

In the decision, the land is legal according to the law belonging to the intervention defendant. As a result, the plaintiffs lost land used for economic activities. The plaintiffs are entitled to replacement land due to land included in the HGU extension. The replacement land can be proven in the witness statement in decision number 36/Pdt.G/2022/PN. Idm that the plaintiffs are entitled to compensation for damages due to land included in the extension of HGU land; in this case also in the witness statement that the defendant intervened was considered a default based on the Regent's Decree regarding the replacement land that was not fulfilled. Suppose the plaintiffs are not entitled to a lawsuit because they use the HGU land owned by the

intervention defendant. In that case, it is necessary to reconsider that the intervention defendant must replace the land included in the HGU; the intervention defendant can be said to have violated the subjective rights of the plaintiffs based on the legal opinion of Judge Member II in the decision. The violation of subjective rights is related to land agreed to wait for replacement land and the fact that the land had been cultivated but managed by other parties, in this case, the defendants.

E. Conclusion

The results of the conclusion of this study are:

1. The effort to resolve the case of unlawful acts is not in accordance with the law because, in its settlement, the judge cannot help find and provide justice for the parties; in the settlement, not all parties get what is their right, it can be said that there is an imbalance between rights and obligations.
2. The plaintiffs considered the dispute settlement unfair because they did not get what they were entitled to. A panel of judges, with their legal considerations, granted the reconciliation lawsuit from the intervention defendant and rejected all of the plaintiffs' claims. As a result, the plaintiffs did not get compensation for the destruction of land carried out by the defendants and did not get replacement land from the intervention defendants, which resulted in the loss of land that could be used for economic activities.

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