

The Position of BPN in Resolving Land Cases in Depok: A Restorative Justice Approach

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Abstract. Non-penal policies should ideally be regulated, which is the legal basis for implementing the Land Mafia Prevention and Eradication Task Force Team. Legal certainty refers to the application of laws that are clear, permanent, consistent, and consistent. The implementation of which cannot be influenced by subjective circumstances. The restorative justice approach will be the basis for formulating non-penal policies to resolve land dispute cases in Indonesia. The purpose is to determine the position, role, and responsibilities of BPN in Land Settlement in Depok City. This research is normative juridical research and has the character of a prescriptive analysis. According to the author, the theories put forward in this research are the theory of legal certainty and the theory of ownership. Novelty in this research is that the object of the dispute in the BPN Depok area has not involved resolution based on the Principles of Restorative Justice. The research results show that the Depok City BPN has demonstrated significant achievements in resolving land cases, with a level of dispute resolution that exceeds national targets and innovation in conflict resolution approaches. However, the obstacles faced, especially regarding case complexity and limited resources, indicate the need to develop a more comprehensive and sustainable strategy.

Keywords: BPN; restorative justice; responsibility

1. Introduction

Settlement of land disputes carried out through a non-litigation process is not *res judicata* (court decision), however many members of the community tend to choose non-litigation resolution with various considerations rather than taking the litigation route. Dispute resolution through non-litigation channels provides satisfaction for the parties to the dispute.

Research that is relevant to this research is as follows, resolving multiple certificate disputes in Manggarai Regency in the research of Putu Eva Ditayani Antari et.al (2023) places more emphasis on the mediation approach by referring to Agrarian Ministerial Regulation Number 21 of 2020 concerning Handling and Settlement of Land Cases. Zico Junius Fernando said that restorative justice is a reform in criminal law after the Draft Law of the Criminal Code was passed.

Xianlei Ma, et, al (2016) state that land ownership certification aims to provide legal certainty and prevent population migration due to land control carried out by local governments or non-return by tenants in more developed land rental market areas. Due to land certification and owners, law enforcement can be effective if they have a certificate deed.

Rudhi Gindriansyah, M. Taufik Makarao, Moh. Zakky AS said that the restorative justice mechanism within the National Police has not been running optimally due to the lack of regulations

at the level of law, but only limited to regulations such as Telegram Letter From The Head Of National Police Number: TR/1124/XI/2006 in handling perpetrators of criminal acts of embezzlement in work and public order, as a result limited capacity and capability of investigators at the Bandung Police Criminal Investigation Unit.

Illegal control of land due to economic development and the increase in population in China creates problems in terms of legal certainty, so a comprehensive solution is needed, so direct government intervention in the development of the land markets as regulator and operator. The land mafia is a serious criminal, so the form of sanctions which aligned through retributive state administrative sanctions provides a deterrent effect by changing the land registration system from negative publications to positive publications to maximize law enforcement.

Desi Apriania, Arifin Burb (2023) said that land problems occur due to land status not being physically controlled and maintained or acquisition not in good faith, however, with registration of land rights which is valid for five years, it can guarantee legal certainty for owners of land rights even though negative stelsel (Apriani & Bur, 2020). Transparency in registering land rights can eliminate land mafia practices while providing legal certainty for the community, one of which is through digital or electronic land registration.

The novelty of this research is a deepening of previous research regarding the role and responsibilities of National Land Agency in resolving land disputes through a restorative justice approach. The aim of this research is to determine the position, role and responsibilities of National Land Agency in resolving land cases in Depok using a restorative justice principle approach.

2. Method

National Land Agency is an authorized institution in the process of finding solutions to all land problems both through litigation and non-litigation with a restorative justice approach, while the research form uses empirical normative juridical which combines legal studies with statutory regulatory approaches and involves field studies and the use of certainty theory. law and ownership theory, so that the conclusions can provide better future solutions (prescriptive) and produce appropriate and feasible conclusions.

Terry Hutchinson in David Tan (2021) believes that normative juridical emphasis is on positive (written) law obtained through literature studies to obtain all the legal sources needed without involving quantitative approaches including field studies. Meanwhile, empirical research is a study that seeks the truth through field studies involving survey techniques and interviews with relevant respondents. The research location is the Depok city area, West Java.

3. Discussion

The dispute resolution process can be carried out through litigation which involves court systems and procedures, while the non-litigation route can be carried out through a deliberative and consensus approach between the parties so that an effective and efficient solution can be achieved and can maintain the dignity of the parties. In practice, dispute resolution is more widely used in resolving business disputes, but along with the times and the need for effectiveness and efficiency of solutions in every legal problem, the deliberation approach (as an alternative to resolving cases) is used in resolving other legal disputes, including land problems involving all parties. both the victims of the perpetrators and the authorities (National Land Agency).

Land disputes often occur due to limited land, the high economic value of land and the government's lack of attention to land administration-weak law enforcement, ambiguous legal sources. Conditions of legal certainty and land disputes are often due to the owner's neglect of

administering their ownership rights, while other parties feel that they are not guilty of controlling the land due to the scarcity of land that can meet their economic needs (Di Falco et al., 2020).

Alternative dispute resolution related to land is a case that involves the following criteria: (Peraturan Menteri Agraria Dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 21 Tahun 2020 Tentang Penanganan Dan Penyelesaian Kasu Pertanahan, 2020):

Problems that can be resolved through arbitration are problems that fall into the "Serious Cases" category, that is, these problems have complex criteria and dimensions and involve various parties and have the potential to cause social, economic, political and security turmoil;

Land problems that have a more administrative dimension so that resolution can be carried out through administrative law, and do not have an impact on social, economic, political and security unrest; And

Land problems of an administrative nature which are resolved simply by a letter of resolution instructions to the complainant or applicant.

The legal approach to resolving land disputes should not only rely on legalism as applied in the litigation process, because it fails to provide justice and is unable to resolve the root of the problem, but provides satisfaction to the parties and is able to empower the parties - victims, perpetrators, families, and communities and parties. authorities so that using this concept also pays attention to both the needs of the victim and the needs of the perpetrator so that it helps prevent the repetition of criminal acts in the future (Putri, 2022).

The concept of reforming criminal law with the principle of returning the position of the parties to what it was before the dispute occurred on the basis of deliberation and consensus which is full of the noble values adhered to by the Indonesian nation, which has the potential to restore the dignity of the parties, both perpetrators and victims (Dandurand, 2020).

In implementing this alternative settlement, it can restore social integration between the parties mediated by authorized officials. This arbitration process is not only carried out by the domestic justice system, but has become a global concern, this is proven by the existence of (The General assembly - General Assembly, 2001) see (Council, 1999). The paradigm change from a retributive system to a restorative one is based on utilitarian principles but still provides a deterrence effect (Harahap, 2024).

The Supreme Court welcomes an easy, cheap and simple justice system by updating the rules regarding alternative dispute resolution (Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 Tentang Prosedur Mediasi Di Pengadilan, 2016) where disputes must be resolved through mediation first, if not possible potentially null and void (provisions of article 130 HIR and/or article 154 Rbg).

Depok, as a developing city, is also not free from various land problems, for this reason the National Land Agency's role in carrying out its mediator role is a deep technical understanding of land aspects. National Land Agency mediators generally have an educational background and experience in the land sector, which allows them to understand the complexity of disputes and provide relevant technical advice. This is in line with mediation theory which emphasizes the importance of mediator competence in the area that is the subject of the dispute (Ramadhani & Lubis, 2021).

However, National Land Agency's role as a mediator also faces a number of challenges. One of them is the perception of National Land Agency's neutrality, considering its position as a government institution. Some parties may question National Land Agency's ability to remain neutral, especially in disputes involving the government or state-owned enterprises. To overcome this, National Land

Agency needs to consistently demonstrate professionalism and integrity in carrying out its mediator role.

Another challenge faced is limited resources, both in terms of personnel and infrastructure. Mediation of land disputes often takes a long time and involves various parties, so it requires the allocation of quite a lot of resources. National Land Agency needs to continue to increase its mediator capacity through training and continuous professional development.

Another important aspect in National Land Agency's role as a mediator is its ability to integrate formal and informal approaches in dispute resolution. On the one hand, National Land Agency has formal authority recognized by law. On the other hand, the mediation process requires a more flexible and dialogue-oriented approach. The balance between these two aspects is the key to National Land Agency's success in facilitating dispute resolution.

National Land Agency's role as a mediator also needs to be strengthened through closer collaboration with related institutions, such as regional governments, judicial institutions and civil society organizations. This multi-stakeholder approach is important to overcome the complexity of land disputes which often involve various legal, social and economic aspects.

In the future, National Land Agency needs to continue to develop its mediator capacity not only in technical aspects of land, but also in communication skills, negotiation and cross-cultural understanding. This is because of the diversity of socio-cultural contexts in Indonesia which can influence the dynamics of land disputes and the resolution process.

In the context of technological developments, National Land Agency also needs to explore the potential for using online or hybrid mediation methods, especially for cases involving parties located far apart. This innovation can increase the efficiency of the mediation process without reducing the essence of direct interaction which is important in dispute resolution.

One of the innovations implemented by the Depok City National Land Agency in handling disputes is the use of the Agrarian Reform Task Force (GTRA) as a conflict resolution scheme. According to information from the official of Depok City National Land Agency website, this approach aims to integrate dispute resolution with the broader agrarian reform program. Through GTRA, Depok City National Land Agency seeks not only to resolve disputes casuistically, but also to address the root of structural problems in land control and ownership.

The effectiveness of the Depok City National Land Agency in carrying out its duties and functions related to dispute resolution can be seen from several indicators. According to a report quoted from the Hukumid.co.id website, Depok City National Land Agency handles land disputes above the national average. The Depok City National Land Agency Dispute Control and Handling Section reportedly handled 34 land dispute cases in a certain period. This figure shows the high level of dispute handling activity in the region. However, the high number of dispute handling also indicates the complexity of land problems in Depok City. This requires National Land Agency Depok City to continue to increase its capacity and effectiveness in carrying out its duties and dispute resolution functions.

In an effort to increase the effectiveness of dispute handling, Depok City National Land Agency has taken several strategic steps. One of them is the formation of a Complete Systematic Land Registration Task Force (PTSL Task Force) which will be inaugurated in 2023. According to a statement by the Head of Depok City National Land Agency, Indra Gunawan, the PTSL Task Force is expected to play a role in preventing land disputes by increasing legal certainty over land ownership.

Depok City National Land Agency is also actively encouraging the acceleration of certification of government and Nationally Owned Enterprises' assets as a preventive measure to prevent land disputes and state losses. This step reflects a proactive approach in carrying out the dispute

resolution function, with a focus on prevention in addition to handling cases that have already occurred. In carrying out its duties and functions, Depok City National Land Agency faces various challenges. One of the main challenges is the complexity of disputes involving various parties with different interests. This requires Depok City National Land Agency to have a high mediation capacity and in-depth understanding of the legal, social and economic aspects of each dispute case.

Another challenge is limited resources, both in terms of personnel and infrastructure. Handling land disputes requires experts who have special competencies and adequate supporting equipment. Depok City National Land Agency needs to continue to increase its human resource capacity through training and continuous professional development.

The Depok City National Land Agency has implemented various proactive strategies in efforts to prevent land disputes. This comprehensive approach reflects the understanding that preventing disputes is a more efficient and effective step than handling disputes that have already occurred. One of the main efforts carried out by Depok City National Land Agency is to encourage the acceleration of certification of government and State-Owned Enterprises' assets. The Head of Depok City National Land Agency, Indra Gunawan, emphasized that the realization of certification of government assets, including State Owned Enterprises' assets, is a key strategy in preventing potential misuse of assets that could harm state finances (Depok, 2024c).

The effectiveness of efforts to prevent land disputes by the Depok City National Land Agency can be seen from several indicators. One of them is success in certifying government assets. In early 2024, Depok City National Land Agency succeeded in handing over 856 Depok City Government asset certificates (Depok, 2024a). This achievement shows National Land Agency of Depok City's commitment to strengthening the legal status of government assets, which in turn can prevent potential disputes in the future.

Furthermore, Depok City National Land Agency has also succeeded in realizing 1,000 asset certificates belonging to the Depok City Government without using a special budget (Depok, 2024b). This success not only shows efficiency in the use of resources but also reflects the strong commitment of Depok City National Land Agency in securing government assets and preventing potential disputes.

However, efforts to prevent land disputes by the Depok City National Land Agency also face various challenges. One of them is the complexity of land problems in Depok City which continues to develop along with the city's growth. The Head of Depok City National Land Agency, Indra Gunawan, admitted that there were two main root causes of land conflicts in Depok City (Depok, 2023). This challenge requires Depok City National Land Agency to continue to develop prevention strategies that are adaptive and responsive to the dynamics of city development.

In facing these challenges, Depok City National Land Agency has optimized the use of mediation as a method of conflict resolution (Depok, 2023). Although mediation is generally viewed as a dispute resolution method, this approach also has a preventative aspect. By resolving conflicts peacefully through mediation, Depok City National Land Agency can prevent disputes from escalating which have the potential to have a wider impact on society.

From a theoretical perspective, the efforts to prevent land disputes carried out by the Depok City National Land Agency can be understood through the theoretical framework of preventive conflict management. This theory emphasizes the importance of identifying potential conflicts early and taking proactive steps to prevent these conflicts from developing into open disputes. Depok City National Land Agency's approach in encouraging asset certification and increasing land data transparency reflects the practical application of this theory.

Apart from that, the efforts of the Depok City National Land Agency can also be seen as an

implementation of the principles of good governance in land administration. Transparency, accountability and community participation which are the focus of various Depok City National Land Agency initiatives are key elements in realizing good land governance.

In the future, Depok City National Land Agency B needs to continue to develop more comprehensive and innovative land dispute prevention strategies. The use of information technology, as has been started with the BERMATA application, needs to be expanded to cover other aspects of land administration. In addition, strengthening collaboration with various stakeholders, including local governments, academics and civil society organizations, is also important to ensure a holistic approach in preventing land disputes.

Depok City National Land Agency's efforts to prevent land disputes show a proactive and multidimensional approach. Through a combination of asset certification strategies, increasing data transparency, public education, and optimizing mediation, Depok City National Land Agency has demonstrated a strong commitment to maintaining land order. Although we still face various challenges, the steps that have been taken provide a strong foundation for the development of more effective land dispute prevention strategies in the future.

Mediation Process Carried Out by Depok City National Land Agency mediation as the main method in resolving land conflicts in the region. The mediation process carried out by Depok City National Land Agency reflects a comprehensive approach and is oriented towards peaceful dispute resolution, taking into account the complexity of land issues in rapidly developing urban areas such as Depok City.

The mediation process carried out by Depok City National Land Agency shows a comprehensive approach and is oriented towards peaceful dispute resolution. Through a combination of in-depth technical understanding, use of technology, and application of good mediation principles, Depok City National Land Agency has demonstrated a strong commitment to resolving land disputes through non-litigation channels. Although it still faces various challenges, the steps that have been taken provide a strong foundation for the development of more effective mediation processes in the future.

The Depok City National Land Agency has demonstrated impressive performance in handling and resolving land cases in its area. Depok City National Land Agency's achievements in this regard deserve appreciation, considering the complexity of land problems faced in rapidly developing urban areas such as Depok. Based on a report from the Head of the Depok City National Land Agency Dispute Control and Handling Section (PPS), Galang Rambu Sukmara, the level of land dispute resolution at Depok City National Land Agency reached 99.66 percent, exceeding the national target set by the National Land Ministry. This achievement reflects the hard work and high commitment of the Depok City National Land Agency team in efforts to eradicate land mafia practices and resolve long-standing land problems.

Quantitatively, the Depok City National Land Agency has succeeded in handling 34 land cases throughout 2023, with details of 20 cases successfully resolved and 14 cases still in the process of being handled. This figure shows the quite high workload as well as the complexity of land problems faced in Depok City. The success in resolving more than half of the cases handled shows the effectiveness of the strategies and approaches implemented by the Depok City National Land Agency in managing land disputes.

Apart from achievements in dispute resolution, Depok City National Land Agency also demonstrated good performance in terms of budget management. In 2023, Depok City National Land Agency succeeded in achieving budget absorption of 98.51 percent of the total budget ceiling of IDR 19,282,560,000. This achievement exceeds the national target set by the Ministry of ATR/ National

Land Agency of 97 percent. This high-budget absorption shows the effectiveness of financial resource management in supporting Depok City National Land Agency operations and programs, including in resolving land cases.

The success of the Depok City National Land Agency in handling land disputes cannot be separated from the support and direction from the Ministry of National Land Agency (ATR/BPN). The Ministry pays special attention to cases that are in the public spotlight and sets them as priorities for resolution. This shows that there is good synergy between the Depok City National Land Agency and central agencies in an effort to resolve complex land problems.

Depok City National Land Agency also shows commitment to efforts to prevent land disputes through government and State-Owned Enterprises asset certification programs. The success in handing over 856 Depok City Government asset certificates in early 2024 shows the proactive steps taken by the Depok City National Land Agency in strengthening the legal status of government assets. This step not only provides legal certainty for public assets, but also has the potential to prevent future disputes regarding the ownership status of these lands. In the future, Depok City National Land Agency needs to continue to develop more adaptive and sustainable strategies in managing land issues in urban areas. This could include increasing the use of information technology in land administration, strengthening early detection systems to identify potential disputes before they escalate into larger conflicts, as well as increasing collaboration with various stakeholders in dealing with complex land issues.

4. Conclusion

The position of the National Land Agency (BPN) in resolving land cases in Depok City extends beyond its administrative function as a land registration institution. BPN plays an important role as a mediator, facilitator, and preventive institution in addressing land disputes through non-litigation mechanisms that reflect the principles of restorative justice. The findings demonstrate that BPN Depok has adopted a more comprehensive approach by combining mediation, technical land expertise, asset certification, agrarian reform initiatives, technological innovation, and collaboration with relevant stakeholders. This approach contributes to the restoration of legal certainty, the protection of land ownership rights, and the prevention of escalating conflicts. The high rate of case resolution, including the reported 99.66% resolution rate, as well as the successful certification of government assets, indicates the significant contribution of BPN Depok to effective land dispute management.

Nevertheless, the implementation of a restorative justice approach in land dispute resolution still requires continuous institutional strengthening. The complexity of land disputes, limited human and infrastructural resources, and concerns regarding the neutrality of BPN as a government institution remain important challenges. Therefore, BPN needs to strengthen the professional capacity of its mediators, improve transparency and accountability, expand digital and hybrid mediation mechanisms, and enhance cooperation with local governments, judicial institutions, academics, and civil society. In this context, restorative justice should not be understood merely as an alternative mechanism for resolving existing disputes, but also as a broader framework for preventing conflict, restoring relationships, and strengthening public trust in land administration. Accordingly, the future development of BPN's role in Depok and other urban areas should integrate legal certainty, ownership protection, conflict prevention, and participatory dispute resolution within a sustainable land governance framework.

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