

## BENEFITS OF SETTLEMENT OF DISPUTES CONDUCTED BY THE INDIGENOUS COMMUNITIES OF PADANG LENGKUAS WITH PT. ARTA PRIGEL THROUGH ALTERNATIVE DISPUTE RESOLUTION (ADR)

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### **Abstract**

*Land disputes often occur between community members and plantation companies, as well as with government agencies or institutions. In this land dispute case, it has been more than 20 years that the Padang Lengkuas indigenous people have had a land dispute with PT. Arta Prigel in Lahat District, South Sumatra Province. Efforts to resolve disputes through the courts do not bring resolution for both parties, so that dispute resolution through alternative dispute resolution (ADR) is the best effort in resolving disputes. This research is normative legal research with a juridical-empirical approach. The result of the study showed that the benefits derived from alternative dispute resolution options (ADR) through mediation, which provides dispute resolution that can be accepted by all parties without any party losing or winning because it is based on mutual agreement of all parties. PT. Arta Prigel can continue to cultivate the land based on the HGU granted, while the the Padang Lengkuas Indigenous People also continue to benefit from the land through the plasma plantation program and corporate social responsibility programs.*

**Keywords:** *Land Dispute Resolution, Alternative Dispute resolution, Padang Lengkuas Indigenous People, PT. Arta Prigel.*

### INTRODUCTION

Agrarian conflicts in Indonesia throughout 2019 according to data from the Consortium for Agrarian Reform (KPA) there have been 279 cases of agrarian conflicts with an area of conflict reaching 734,239.3 ha. The number of people affected by agrarian conflicts is 109,042 families spread across 420 villages in all provinces in Indonesia.<sup>1</sup> According to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, the root cause of land disputes is proof of ownership of rights and overlapping land tenure.

The main causes of agrarian conflicts include: minimal recognition and protection of the rights of community entities, arbitrary land grabs and seizures, and boundary disputes (overlapping). In the plantation sector, patterns of agrarian conflict include: overlapping locations, land disputes, environmental destruction, marginalization of local communities or indigenous peoples, objections to the value of compensation, involvement of officials, and criminalization.<sup>2</sup>

Basically, land disputes can be seen, there are disputes that arise between community members, disputes between community members and plantation companies, and disputes between community members and government agencies or institutions.<sup>3</sup> In almost every area where there are land disputes, the parties involved and authorized to deal with these problems resolve them in various ways. One feature of land disputes that has attracted quite a lot of attention is disputes related to customary land issues.

<sup>1</sup> Agrarian Reform Consortium, "2019 Year-End Notes of the Agrarian Reform Consortium, From Aceh to Papua: The Urgency of Resolving Structural Conflicts and the Way for Agrarian Reform Going Ahead", Secretariat General of the Agrarian Reform Consortium (KPA), Jakarta, 2020, p. 3-4.

<sup>2</sup>Endang Suhendar and Rimbo Gunawan, "Making Soil a Commodity", Journal of Social Analysis Edition 3, July 1996, p. 3

<sup>3</sup>Maria SW Sumardjono, Land Dispute Mediation, (Jakarta: Kompas, 2008), p. 44. See Darwis Anatami, "Whose Responsibility Is It, If There Is a Double Certificate on a Plot of Land", Journal of Hukum Samudra Keadilan Vol. 12 No. 1, January-June 2017, p. 7-8 Concerning Outline of the emergence of land disputes.



Likewise the conflict that occurred in Lahat Regency, where the Padang Lengkuas Indigenous People claimed the land occupied by PT. Arta Prigel is customary land which was confiscated in 1995. PT. Arta Prigel acquired the land by evicting the customary land of Padang Lengkuas Village without consulting the community, on the basis of rights in the form of South Sumatra Governor Decree No. 487/SK/I/1993.

The land dispute occurred, starting from the Indigenous People of Padang Lengkuas Village who were working together to make sirings for irrigation of widening rice fields whose springs were taken from the Temiang River. However, PT. Arta Prigel along with his cronies assisted by the State Apparatus (ABRI personnel) thwarted the efforts of the Indigenous People of Padang Lengkuas Village to make irrigation sirings and the sirings were evicted. Furthermore, the community put up resistance by complaining about the incident to the Regional Government of Lahat Regency (in this case the Regent of Lahat) which at that time was held by Solichin Daud. With the public's complaints, the Regent ordered his men to check the truth in the field. In fact the truth lies with the Indigenous People of Padang Lengkuas Village, the Regent issued the Inclave Letter of the Regent of Lahat No. 593/488/I/1995, however, even though the Regent has issued an Inclave Letter for the Indigenous People of Padang Lengkuas Village, PT. Arta Prigel continues to search the land blindly. So that resulted in customary land controlled by companies reaching  $\pm$  900 ha.

In 1997, the customary land of the Padang Lengkuas Indigenous People had become the oil palm plantation of PT. Arta Prigel. The customary land in Padang Lengkuas Village has been lost without any compensation, as well as growing crops, durian, duku, coffee, bamboo and forests, all of which have been evicted. In 1998, under the pretext of compensation money, PT. Arta Prigel gave Rp. 40,000,000.- (forty million rupiah) to the Padang Lengkuas Indigenous People, but the money was made as compensation money for Inclave Regent's land area of 533 ha with details of Rp.75,000,-/ha. This compensation was very detrimental to the community, so the Padang Lengkuas Indigenous People gave power to Nurdiana as their attorney to deal with the legal issue, but the results were unclear (zero). In 2015,<sup>4</sup>

The customary land has been certified with Cultivation Rights, the villages which include land disputes between PT. Arta Prigel and the Padang Lengkuas Indigenous People are Cultivation Rights Certificates (SHGU), namely:

1. "SHGU No. 13/Lahat, Lahat District, Pulau Pinang, which includes the villages of Tanjung Payang, Pagar Batu, Kerung Perigi. With a land area of: 531 Ha.
2. SHGU No. 14/Lahat, Merapi District, Pinang Island, which includes the villages of Padang Lengkuas, Karang Endah, Tanjung Pinang, Mount Agung, Pagar Batu, Nantal. With a land area of: 831 Ha.
3. SHGU No. 15/Lahat, Pulau Pinang District, which includes the village of Talang Sawah, Talang Sepick. With Land Area : 186 Ha
4. SHGU No. 16/Lahat, Pulau Pinang District, which includes the village of Muara Cawang, Talang Sawah. With a land area of: 527 Ha.<sup>5</sup>

Each party involved in the conflict claims to have the most rights over the land that is the source of the conflict. Tension between the community and the government and the managers of these lands continues to occur, so that from time to time radical and anarchic actions appear in the form of destroying crops and forcibly occupying land by the community. Settlement through legal channels has not or even cannot resolve the conflict that has occurred, this is due to technical factors involving social, cultural, economic and political aspects.

This phenomenon also occurs in the Oil Palm Plantation (PKS) owned by PT. Arta Prigel in Padang Lengkuas Village, Kota Lahat District, Lahat Regency. In this dispute, the Padang Lengkuas Indigenous People were involved with PT. Arta Prigel currently controls the land on the basis of rights in the form of Cultivation Rights (HGU). The reason is, PT. Arta Prigel, who is engaged in the oil palm plantation, is suspected of having seized  $\pm$  816 ha of land.

<sup>4</sup>Documents of the Lahat Regional Secretariat, Chronology of Eviction of Padang Lengkuas Traditional Land.

<sup>5</sup>Ibid.



At the end of 1994 to early 1995, PT. Arta Prigel cleared the community's customary forest with an area of ± 816 ha. The evictions were carried out at night to trick the residents of Padang Lengkuas Village, Kota Lahat District, Lahat Regency. The company was accused of clearing the residents' coffee and rubber plantations. After the community rioted, the management of PT. Arta Prigel gave money that was used as compensation money in 1998. When he gave the money to residents, the owner of PT. Arta Prigel stated that the money was compensation money because compensation payments were calculated per plot, starting from IDR 60,000 to IDR 100,000. Various attempts have been made including bringing this land dispute to the DPR-RI but there has been no resolution. Meanwhile, on the other hand PT. Arta Prigel claims that the land area owned by PT. Arta Prigel is not as wide as what the Padang Lengkuas Indigenous People demand, so access to the PT. Arta Prigel was blocked by the community who claimed plantation land as indigenous peoples' land.<sup>6</sup>

The scope of this study is a combination of customary law and agrarian law. In the customary law approach, dispute resolution between indigenous peoples and companies always prioritizes deliberation for consensus. While the agrarian law approach, the settlement of land disputes uses a positive legal instrument, namely the land law that applies in Indonesia. The main problem that will be studied and analyzed in this research is related to what benefits are obtained from the choice of dispute resolution currently carried out by the Padang Lengkuas Indigenous People.

This research uses a type of normative legal research, which is descriptive analysis research. The approach methods used in this study, namely: statutory approach (statute approach), conceptual approach (conceptual approach), and case approach (case approach). The location of this research was conducted at PT. Arta Prigel, domiciled in Padang Lengkuas Village, Lahat City District, Lahat Regency, South Sumatra. From the research location, informants were taken through interviews with 10 Padang Galang indigenous peoples, Head of Legal and Public Relations: PT management Arta Prigel, Head of Padang Lengkuas Village, Head of Land Office of Lahat Regency, Kapolres Lahat, Kodim Commander (Dandim) 04/05/Lahat, Head of Lahat City District, Lahat Regency.

## **1. Settlement of Land Disputes Through Litigation and Alternative Dispute Resolutions Out of Court**

### **a. Litigation**

Litigation is the preparation and presentation of each case, including providing information as a whole as well as processes and cooperation to identify problems and avoid unexpected problems. While litigation is the settlement of legal issues through the courts. Generally, the implementation of a lawsuit is called litigation. A lawsuit is a civil action brought in a court of law where the plaintiff, the party claiming to have suffered damages as a result of the defendant's actions, demands a legal or fair remedy. The defendant is required to respond to the plaintiff's complaint. If the plaintiff is successful, judgment will be rendered in favor of the plaintiff, and various court orders may be issued to enforce rights, damages awards, or impose temporary or permanent orders to prevent or compel action. People who have a penchant for litigation rather than seeking non-judicial solutions are called litigious.

### **b. Non-Litigation**

The non-litigation path means resolving legal issues outside the court. This non-litigation route is known as Alternative Dispute Resolution. Settlement of cases outside the court is recognized in the laws and regulations in Indonesia. First, in the elucidation of Article 3 of Law Number 14 of 1970 concerning Basic Provisions of Judicial Power it states "Settlement of cases outside the court, on the basis of peace or through a referee (arbitration) is still permitted". Second, in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution Article 1 point 10 it states "Alternative Dispute Resolution" is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlements outside the court by way of consultation, negotiation, mediation, or expert judgment." Consultation, is an action that is personal between a party (client) and another party who is a consultant, who gives his opinion or

<sup>6</sup>Palembang Tribune Daily, "Residents of Padang Lengkuas Portal Jalan PT. Arta Prigel", published on Wednesday, 27 May 2015.



advice to the client to meet the needs and needs of the client. The consultant only provides (legal) opinion as requested by the client, and then the decision regarding the settlement of the dispute will be taken by the parties.

Negotiation, settlement of disputes through direct deliberations/negotiations between the conflicting parties with the aim of seeking and finding forms of settlement that are acceptable to the parties. The agreement regarding the settlement must then be stated in a written form agreed by the parties.

Mediation is a dispute resolution through negotiations assisted by an impartial/neutral outside party in order to obtain a dispute resolution agreed upon by the parties. Conciliation, Conciliation in English means peace, settlement of disputes through negotiations involving a neutral third party (conciliator) to assist the disputing parties in finding a form of settlement agreed upon by the parties. The results of this conciliation must be made in writing and signed jointly by the parties to the dispute, then must be registered at the District Court. This written agreement is final and binding on the parties. expert opinion,

Settlement of disputes outside the court (non-litigation) is an attempt to bargain or compromise to obtain a mutually beneficial solution. The presence of a neutral third party is not to decide the dispute, but the parties themselves make the final decision.<sup>7</sup>

## **2. Condition of Land Dispute Between Padang Lengkuas Indigenous People, Lahat Regency and PT. Arta Prigel**

As for the condition of the land dispute between the Padang Lengkuas Indigenous People, Lahat Regency, South Sumatra Province and PT. Arta Prigel is related to the existence of community land that is included in the Cultivation Right (HGU) area of PT. Arta Prigel. The Padang Lengkuas community. The people of Padang Lengkuas control and cultivate the land in Talang Sawah Village, Pulau Pinang District, Lahat Regency, South Sumatra Province based on the Certificate of Customary Land Rights No. 038/P/TS/1994 An. Maijah Bnti Jamun. On March 20, 2003, the Lahat District National Land Agency issued Letter No. 500/508/26, regarding the Invitation to the Session of the South Sumatra Province Land Inspection Committee "B". The invitation was made on the basis of the PT. Arta Prigel, dated April 6 2001 on land located in Lahat District, Pulau Pinang, and Merapi, Lahat Regency, South Sumatra Province, covering an area of + 2,075 ha. The HGU area includes land owned by the deceased. Maijah Binti Jamun on the basis of the 1994 Customary Land Rights Certificate.<sup>8</sup>

Meanwhile, PT. Arta Prigel controls and operates the land based on a Decree from the Lahat District Government Governor Head of Tk. I Sumsel No. 593/05239/I, dated September 20, 1993 concerning Applications for Land Clearing Permits for Oil Palm Plantations + 5,000 ha An. PT. Arta Prigel. On the basis of the letter, finally PT. Arta Prigel obtained SHGU No. 15, SGU No. 16, SHGU No. 17, and SHGU No. 18 with total land area + 2,075 ha.<sup>9</sup>The opinions of each disputing party can be described in the sub-discussion below:

**a. Opinion of PT. Arta Prigel:** According to the Management of PT. Arta Prigel regarding the claim made by the Pagar Batu Village Community, Pulau Pinang District, Lahat Regency, regarding a land area of 180.36 ha, that the land belongs to PT. Arta Prigel. The documents submitted to the Government of Lahat Regency include: Letter of Statement from the Pagar Village Community for land settlement in 2002; Letter of Agreement between PT. Arta Prigel with the Pagar Batu Village Community; List of Attendance and Signatures of the Pagar Batu Village Community that is known by the Village Head, Camat, Danramil, and the Pulau Pinang Police Chief; Company SHGU; and AZ.010142-No. 16 dated 29 December 2009.<sup>10</sup>In the land acquisition process, the company has never forced its will to acquire large tracts of land. This is because the company only obtained 2,075 ha

<sup>7</sup>Dedy Mulyana, "Legal Power of Mediation Out of Court According to Positive Law", *Journal of Insights Yuridika* Vol. 3 No. 2, (2019), p. 177-198.

<sup>8</sup>Decision of the Lahat District Court No. 01/Pdt.G/2018/PN.Lht., dated 19 September 2018.

<sup>9</sup>Ibid.

<sup>10</sup>Julius' statement, Public Relations of PT. Arta Prigel, at the Lahat District Government Office, in Lahat, on 22 August 2019.



from a location permit covering an area of 5,000 ha. Since 1995-1996 from planting to "replanting" (2018) there have never been any parties claiming land on the company's plantation land. However, around January 2018 there were individuals who used the Firnanda & Rekan Law Office to install signboards/postmarks on the company's land which was being replanted. The land that has been planted is only 1,700 ha of the 2,075 ha based on the SHGU owned by the company.<sup>11</sup>

**b. Opinion of the Lahat District Land Office:** In the opinion of the BPN/Land Office of Lahat Regency regarding the dispute between the people of Pagar Batu Village, Pulau Pinang District, Lahat Regency with PT. Arta Prigel said that in order to solve the problem, it is necessary to carry out an assessment and re-measurement, witnessed by all parties involved. Regarding HGU PT. Arta Prigel started on September 29 2006 for 35 years ending in 2041.<sup>12</sup>

**c. Opinion of Lahat Regency Government:** According to the Lahat Regency Government, this is related to a land dispute between the Pagar Batu Village Community, Pulau Pinang District, Lahat Regency and PT. Arta Prigel, that this problem should be resolved immediately. The problem for residents is that the HGU was only issued by the BPN of Lahat Regency in 2006, while PT. Arta Prigel had worked on the land in 1993, meaning that the valid permit had expired in 2018. It would be best if the Lahat Regency BPN, PT Arta Prigel, and the Pagar Batu Village Community, Pulau Pinang District, Lahat Regency held a land measurement that had been recognized so far. community area of 180.36 ha so that the boundaries are known.<sup>13</sup> Palm Oil Plantation (PKS) owned by PT. Arta Prigel has been evicted and rejuvenation of new palm seeds has been carried out. It is only natural that the community suspects that the HGU permit will expire in 2018, not in 2041.<sup>14</sup>

**d. Results of the Padang Lengkuas Indigenous Community Mediation Meeting, PT. Arta Prigel, and Lahat Regency Government:** Responding to the demands of the Pagar Batu Village Community, Pulau Pinang Lahat District for a land area of 180.36 ha with PT. Arta Prigel, Lahat Regency Government together with the Lahat Regency Land Office/BPN held a mediation in the Off Room Room of the Lahat Regent's Office. The problem for residents is that the new HGU was issued by BPN Lahat Regency in 2006, while the company PT. Arta Prigel has been working on this land since 1993. This means that the license expired in 2018 (if you count from 1993).<sup>15</sup> The Lahat Regency Government suggested that the Lahat Regency BPN and PT. Arta Prigel and the residents conducted measurements of the 180.36 hectare land which has been recognized by the Pagar Batu Village Community to determine its boundaries. Responding to the options proposed by the Lahat Regency Government, Management of PT. Arta Prigel objected because according to him there were several considerations including the company already having a permit to cultivate the 2,000 ha of land and only 1,700 ha had been worked on. According to the Lahat Regency BPN, even though the HGU has expired, the community cannot immediately take the land with a mechanism, but it must be returned to the State and returned to the local Regional Government first.<sup>16</sup>

If the Lahat Regency Government and PT. Arta Prigel is responsive to the problems that occur in the field, maybe the land dispute has not dragged on until now, but in reality the Regional Government and the company are not responsive. PT. Arta Prigel and the Regional Government of Lahat Regency have not made serious and serious efforts to resolve this. In other words, it's still half-hearted. PT. Arta Prigel and the Regional Government of Lahat Regency do not pay attention to local wisdom that grows and develops which is used as a way of life by the Padang Lengkuas Indigenous People in resolving disputes.

<sup>11</sup>Ibid.

<sup>12</sup>Description Ir. Romanus Noor Widarto, Head of the National Land Agency/Lahat Regency Land Agency, at the Lahat Regency Government Office, in Lahat, on 30 July 2019.

<sup>13</sup>Information from the Regent of Lahat through Assistant II, Drs. H. Suhirdin, MM., at the Lahat District Government Office, in Lahat, on March 25 2019.

<sup>14</sup>Ibid.

<sup>15</sup>Online News Website Penasumatera.co.id, "These are the Results of PT. Arta Prigel and Lahat Regency Government: Regency Government Questions PT. Arta Prigel, which ends in 2041", <https://penasumatera.co.id>, accessed Tuesday, 22 October 2019.

<sup>16</sup>Ibid.



e. **As a result of Land Disputes in Lahat Regency:**As a result of the land dispute that occurred between the Pagar Batu Village Community, Pulau Pinang District, Lahat Regency and PT. Arta Prigel in Lahat Regency, on Thursday, August 8 2019 around 14.00 WIB. There has been a burning of oil palm land owned by PT. Arta Prigel with an area of approximately + 3 ha. It is suspected that the burning of this land was carried out by certain elements from the Pagar Batu Village Community, Pulau Pinang District, Lahat Regency who did not accept the efforts to resolve land disputes that have been carried out so far. The initial problem occurred because according to the community, PT. Arta Prigel expired in 2018, because since 1993 PT. Arta Prigel has started to control and work the land. This is what the community understands that if the HGU permit expires, then the land will return to the State, then the community can control and cultivate it. Actually, according to the applicable legal provisions, if the HGU permit expires, then the party most entitled to control and manage while taking care of the license extension is the old right holder, in this case PT. Arta Prigel.<sup>17</sup>

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<sup>17</sup>More details regarding HGU are regulated in RI Government Regulation No. 40 of 1996 concerning Cultivation Rights, Building Use Rights, and Land Use Rights and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 7 of 2017 concerning Arrangements and Procedures for Determining Cultivation Rights. For a period of time, a HGU is granted for a maximum of 35 years and can be extended for a maximum period of 25 years. After the HGU period and its extension expire, the right holder can then be given a HGU renewal for a maximum period of 35 years on the same land. HGU extension is an extension of the validity period of a right without changing the conditions for granting said right. Whereas what is meant by HGU renewal is the granting of the same rights to the holder of land rights that he already owns with the HGU after the term of the right or its extension has expired. According to Article 9 of RI Government Regulation No. 40 of 1996 extension and renewal of HGU can be made at the request of the right holder, if the following conditions are met: a) the land is still being cultivated properly in accordance with the circumstances, nature and purpose of granting the right; b) the conditions for granting the right are fulfilled properly by the right holder; and c) the right holder still fulfills the requirements as a right holder. as follows: a) the land is still being cultivated properly in accordance with the circumstances, nature and purpose of granting said right; b) the conditions for granting the right are fulfilled properly by the right holder; and c) the right holder still fulfills the requirements as a right holder. as follows: a) the land is still being cultivated properly in accordance with the circumstances, nature and purpose of granting said right; b) the conditions for granting the right are fulfilled properly by the right holder; and c) the right holder still fulfills the requirements as a right holder.

Meanwhile, Article 31 paragraph (2) and Article 35 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Republic of Indonesia No. 7 of 2017 requires a more detailed extension and renewal of HGU, namely: a) the right holder still fulfills the requirements as a HGU holder; b) the land is still being used and cultivated properly in accordance with the circumstances, nature and purpose of granting the rights in question; c) the use of the land is still in accordance with the local spatial layout plan; d) the land is not included in the indicated abandoned land database; and/or e) the land is not in a case in a court of law, and is not placed under confiscation or blocked/status quo. The application for an extension of the HGU period can be submitted by the right holder within 5 (five) years at the latest before the expiration of the right period. The period of extension of rights is granted from the expiration date of the HGU. In the event that the application for an extension is not made until the end of the right, the holder of the Right to Cultivate can apply for a renewal of the right. After the expiration of the HGU period and its extension, the right holders may be granted renewal of HGU over the same plot of land. Former rights holders can apply for HGU renewal no later than 2 (two) years after the expiration of the HGU period and/or its extension. If the application for renewal is not filed by the former rights holder within the renewal period, the HGU is deleted by law and the land becomes State land. After the expiration of the HGU period and its extension, the right holders may be granted renewal of HGU over the same plot of land. Former rights holders can apply for HGU renewal no later than 2 (two) years after the expiration of the HGU period and/or its extension. If the application for renewal is not filed by the former rights holder within the renewal period, the HGU is deleted by law and the land becomes State land. After the expiration of the HGU period and its extension, the right holders may be granted renewal of HGU over the same plot of land. Former rights holders can apply for HGU renewal no later than 2 (two) years after the expiration of the HGU period and/or its extension. If the application for renewal is not filed by the former rights holder within the renewal period, the HGU is deleted by law and the land becomes State land.

For information, the HGU is deleted due to: a) the expiration of the period as stipulated in the decision to grant or extend it; b) the rights are canceled by the authorized official before the expiry of the term because: 1) the rights holder's obligations are not fulfilled and/or the provisions referred to in Article 12, Article 13 and/or



### 3. Dispute Resolution Process Through Legal Efforts Civil Lawsuit to the Lahat District Court

Legal efforts for civil lawsuits to the Lahat District Court which are registered under the Register of Civil Cases No. 01/Pdt.G/2018/PN.Lht., which was decided by the Lahat District Court through Decision No. 01/Pdt.G/2018/PN.Lht., dated 19 September 2018 with a decision declaring the claim unacceptable (Niet Ontvankelijk Verklaard).

The lawsuit filed by Plaintiff An. Dalian was declared unacceptable, meaning that there were still formal requirements that the plaintiff had to fulfill in order to file a lawsuit again. The consideration of the panel of judges at the Lahat District Court, stated that the Plaintiff's lawsuit was blurred because it attracted the Lahat Regional Government as a party to Co-Defendant I. wrong party and must be declared unacceptable.

In the decision of the Lahat District Court, an appeal has been filed with the Palembang High Court and has been decided by Decision No. 117/PDT/2018/PT.PLG., dated 17 January 2019, with a decision upholding the Decision of the Lahat District Court No. 01/Pdt.G/2018/PN.Lht., dated 19 September 2018. The panel of judges at the Palembang High Court stated that the panel of judges at the Lahat District Court had been right and correct in applying the law, so the panel of judges at the Palembang High Court took over all the considerations of the panel the judge of the Lahat District Court to be used as a legal consideration.

The decision of the Palembang High Court which defeated Dalian as a member of the Padang Lengkuas Community, has been filed for cassation to the Supreme Court of the Republic of Indonesia, but until it has been registered under the Register of Civil Cases No. 3173 K/PDT/2019. As for the Decision of the Supreme Court of the Republic of Indonesia No. 3173K/PDT/2019, continues to reject the cassation request submitted by Appellant An. the Dalian. With the consideration that the judge of the Lahat District Court has been right and correct in applying the law. Dalian as the Plaintiff in this case was wrong in inviting the Regional Government of Lahat Regency as Co-Defendant I. because the role of the Regional Government is only as a mediator and not as a litigant. According to the Supreme Court Justices,

### 4. Benefits of Dispute Resolution Carried Out by the Indigenous People of Padang Lengkuas Through Alternative Dispute Resolution (ADR)

There is no explicit definition of litigation found in laws and regulations. However, Article 6 paragraph (1) Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution ("Arbitration Law and APS") reads: "Civil disputes or differences of opinion can be resolved by the parties through alternative dispute resolution based on good faith by excluding litigation in the District Court."<sup>18</sup>

According to Frans Hendra Winarta, in his book "The Law of Dispute Settlement" says that conventionally, dispute resolution in the business world, such as in trade, banking, mining projects, oil and gas, energy, infrastructure, and so on is carried out through a litigation process. In the litigation process, the parties are mutually opposed to each other, besides that litigation dispute resolution is the final means (ultimum remedium) after other alternative dispute resolutions have not produced results.<sup>19</sup>

The same thing was said by Rachmadi Usman, in his book "Mediation in Courts", that apart from going through the court (litigation), dispute resolution can also be settled outside the court (non-

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Article 14 of Government Regulation No. 40 of 1996; or 2) a court decision that has permanent legal force; c) released voluntarily by the rights holder before the expiration of the period; d) revoked based on Law no. 20 of 1961; e) neglected; f) the land is destroyed; g) If within a period of one year the HGU is not released or transferred because the holder of the HGU no longer fulfills the requirements to be able to own a HGU (Indonesian citizen or legal entity established according to Indonesian law and domiciled in Indonesia). The removal of the HGU resulted in the land becoming state land.

<sup>18</sup>See Made Oka Cahyadi Wiguna, "Opportunities for Settlement of Civil Dispute Regarding Land Through Alternative Dispute Resolution With The Principles Of Agreement Law In It", *Journal of Law & Development* 48 No. 3, (2018), p. 506-520

<sup>19</sup>Frans Hendra Winata, *Law of Dispute Resolution*, (Jakarta: Sinar Graphic, 2012), p. 1-2.



litigation), which is commonly known as Alternative Dispute Resolution (ADR) or Alternative Settlement. Dispute. From the matters above, we can see that litigation is the settlement of disputes between parties that is carried out before the court.<sup>20</sup>

According to Article 1 point 10 of the Arbitration and APS Law, Alternative Dispute Resolution is an institution for settling disputes or differences of opinion through procedures agreed upon by the parties, namely out-of-court settlements by way of consultation, negotiation, mediation, conciliation, or expert judgment. Arbitration itself is a way of settling a civil dispute outside the general court based on an arbitration agreement made in writing by the parties to the dispute.<sup>21</sup>

According to Frans Winarta in his book, he describes the meaning of each of the above dispute resolution institutions as follows:<sup>22</sup>

1. "Consultation: an action that is "personal" between a certain party (client) and another party who is a consultant party, where the consultant gives his opinion to the client according to the needs and needs of his client.
2. negotiation: an effort to resolve disputes between the parties without going through a court process with the aim of reaching a mutual agreement on the basis of more harmonious and creative cooperation.
3. Mediation: a way of resolving disputes through a negotiation process to obtain an agreement of the parties assisted by a mediator.
4. Conciliation: the mediator will act as a conciliator with the agreement of the parties by seeking an acceptable solution.
5. Expert Assessment: the opinion of experts for a matter that is technical in nature and in accordance with the field of expertise.

In its development, there is also a form of settlement out of court which turns out to be one of the settlement processes carried out in court (litigation). Let's take the example of mediation. From the article we know that mediation is a settlement outside the court, but in its development, mediation has been carried out in court.<sup>23</sup>

Rachmadi Usman, as quoted from an academic text prepared by the Center for Research and Development of Law and Judiciary of the Supreme Court of the Republic of Indonesia, said that in fact the mediation institution is not part of the litigation institution, where at first the mediation institution was outside the court. But now the mediation institution has crossed into the court area. Developed countries in general, including America, Japan, Australia, Singapore have mediation institutions, both outside and inside the court with various terms including: Court Integrated Mediation, Court Annexed Mediation, Court Dispute Resolution, Court Connected ADR, Court Based ADR, and others.<sup>24</sup>

From the explanation above it can be seen that arbitration, consultation, negotiation, mediation, conciliation, or expert judgment are alternatives to dispute resolution outside the court. That is, it is not part of a litigation institution, although in its development some have become part of the litigation process, such as mediation in court. While what is meant by litigation itself is the settlement of disputes between the parties carried out before the court.

The benefits derived from the Alternative Dispute Resolution (ADR) option carried out by the Padang Lengkuas Indigenous People with PT. Arta Prigel, which is basically deliberation for consensus, the benefits to be obtained will be prolonged. This means that if the community is not manipulated by parties who are not interested, then the company will definitely carry out the development of plasma plantations for the community and carry out Corporate Social Responsibility (CSR), where the implementation is carried out in a sustainable and sustainable manner. By implementing the company's obligations related to plasma plantations and the TJSL Program, a

<sup>20</sup>Rachmadi Usman, *Mediation in Court*, (Jakarta: Sinar Graphic. 2012), p. 8.

<sup>21</sup>Article 1 point 1 of the Arbitration Law and APS.

<sup>22</sup>Frans Hendra Winata, *Op. cit.*, p. 7-8.

<sup>23</sup>Rachmadi Usman, *Mediation in Court*, *Op.cit.*, p. 7-8.

<sup>24</sup>*Ibid.*





harmonious relationship will be established between the Padang Lengkuas Community and the Management of PT. Arta Prigel,

It is best if the Padang Lengkuas Indigenous People who fight for their rights do not want to be driven by irresponsible parties, and PT. Even Arta Prigel, if the community has been separated from the parties that ride on it, the commitment to developing plasma plantations and implementing the TJSJ Program should be carried out in a sustainable and sustainable manner to achieve the goal of increasing the standard of living between the community and the company, so that social justice is evenly distributed.

The benefit of litigation dispute resolution for the Padang Lengkuas Indigenous People is that land disputes become more legal certainty. Even though in taking the litigation route (through court), the Padang Lengkuas Indigenous People suffered defeat. Meanwhile for PT. Arta Prigel, settlement of disputes through litigation channels further strengthens ownership of the land he controls and cultivates.

The benefits of non-litigation dispute resolution for the Indigenous People of Padang Lengkuas, should be more able to resolve disputes holistically (thoroughly). However, it turns out that the Padang Lengkuas Indigenous People were being ridden by a number of irresponsible elements who expected that the HGU land which had expired would be able to apply for rights by these irresponsible elements. Meanwhile for PT. Arta Prigel, the resolution of disputes through non-litigation channels also did not produce any results, instead the land was still controlled and managed by the company without making a contribution to the Padang Lengkuas Indigenous People as local people who live around the company's plantation land.

The principle of ulayat land exploitation is to work together to protect and preserve the land. The value of togetherness and gotong-royong should not have been implemented by the company, even though PT. Arta Prigel as a plantation company has benefited a lot from the customary land in Padang Lengkuas Village. Supposedly, the company PT. Arta Prigel made a contribution to the Padang Lengkuas Indigenous People to be able to move forward and develop together in order to fulfill a sense of justice.

## CONCLUSION

Legal efforts for civil lawsuits to the Lahat District Court which are registered under the Register of Civil Cases No. 01/Pdt.G/2018/PN.Lht., which was decided by the Lahat District Court through Decision No. 01/Pdt.G/2018/PN.Lht., dated 19 September 2018 with a decision declaring the claim unacceptable (*Niet Ontvankelijk Verklaard*). Against this decision an appeal has also been submitted to the Palembang High Court and has been decided by Decision No. 117/PDT/2018/PT.PLG., dated 17 January 2019, with a decision upholding the Decision of the Lahat District Court No. 01/Pdt.G/2018/PN.Lht., dated 19 September 2018. Based on the decision of the Palembang High Court which defeated Dalian as a member of the Padang Lengkuas Indigenous People, an appeal was filed to the Indonesian Supreme Court, and has also been terminated by the Supreme Court Decision. RI No. 3173 K/PDT/2019 which also stated that the lawsuit was not accepted. The reason is because the Plaintiff attracted the Regional Government of Lahat Regency as a Co-Defendant in the case which incidentally was only a facilitator to hold mediation by and between the disputing parties. The dispute resolution process is in fact ineffective and does not resolve legal issues holistically (overall).

The benefits derived from alternative dispute resolution options (ADR) through mediation conducted by the Padang Lengkuas Indigenous People with PT. Arta Prigel, which provides dispute resolution that can be accepted by all parties without any party losing or winning because it is based on mutual agreement of all parties. PT. Arta Prigel can continue to cultivate the land based on the HGU granted, while the the Padang Lengkuas Indigenous People also continue to benefit from the land through the plasma plantation program and corporate social responsibility programs.



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