

# ANALYSIS ON THE DISPUTE RESOLUTION BETWEEN PT. RIMBA LAZUARDI AND DOMO TRIBE COMMUNITY AT RIAU PROVINCE, INDONESIA

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**Abstract:** *There was a conflict between PT Rimba Lazuardi and Domo tribe community in Riau Province Indonesia. The two indigenous or native people were fighting over land. This study aims to study the dispute resolution process adopted in resolving the conflict. The research location is in Pangkalan Village, Pucuk Rantau District, Kuantan Singingi Regency, Riau Province. Pangkalan Village is one of the villages resulting from the division of a new sub-district, namely the Pucuk Rantau sub-district. This research used a normative juridical method, namely in the form of an inventory of applicable laws and regulations by looking for the basic principles or philosophy of legislation or research for the purpose of finding the law of a particular case. The results of this study indicate that in the dispute resolution process, there are two main stages, namely the dispute resolution process by mediation and the second is the dispute resolution process using the judiciary.*

**Keywords:** *Land Disputes, Customary Land Disputes, State Administrative Law.*

## INTRODUCTION

Indonesia is a unitary state united by thousands of islands, straits, and seas. This geographical, and environmental condition causes the diversity of tribes, cultures, races, and groups in Indonesia (cultural diversity)<sup>1</sup>. Each island has a different tribe and culture with its authority. In this case, the land becomes a much-needed aspect of running the territory.

The importance of land for human life cannot be overstated. This is because practically all parts of life, particularly for the Indonesian people, cannot be divorced from the existence of land, which cannot be seen solely from an economic standpoint, but encompasses all aspects of life and livelihood.<sup>2</sup>

Indonesia is an agricultural area. Ensure that fertile land has excellent potential to be used as agricultural land to advance the community's economy. The land is also a significant state asset not only for the community but also for the state. Land in Indonesia is mostly held by the state.<sup>3</sup> Most of the state's income comes from taxes, including land tax, building tax, and other taxes, such as rent, usufructuary rights, and others.<sup>4</sup>

Land concerns arise and are always current from time to time, in line with population expansion, development developments, and the increased access of various parties who gain land as

<sup>1</sup> Hendra H, "Perlindungan Konsumen Jasa Transportasi Online di Kota Banda Aceh (Ditinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen)" Thesis Dissertation, UIN Ar-Raniry, (2020). p. 1

<sup>2</sup>J.T. Rosina, 'Analisis Yuridis Penyelesaian Sengketa Tanah Melalui Mediasi.' (2022) Vol 24 No 2 Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia.

<sup>3</sup> A.G. Bangun, Y. Muhammad, A. Akhyar. 'Analisis Hukum Penyelesaian Sengketa Tanah Melalui Mediasi'. (2022) Jurnal Hukum dan Masyarakat Al-Hikmah.

<sup>4</sup>H. R. S, Ningrum. 2014, 'Analisis Hukum Sistem Penyelesaian Sengketa Atas Tanah Berbasis Keadilan', (2014) Vol. 1 No. 2 Jurnal Pembaharuan Hukum.p. 219-227.



fundamental capital in various interests.<sup>5</sup> Problems in the land sector are influenced by a variety of causes, yet the need for land cannot be avoided. This reality exacerbates challenges in the land sector.<sup>6</sup> In many regions, the problem of land disputes causes numerous conflicts, whether between community groups, communities and enterprises, or communities and the government.<sup>7</sup>

The state's authority in the land sector is the delegation of the nation's duties as regulated in descriptions 111 B and 122 of the Basic Agrarian Laws, whose authority is public. State duties in agrarian matters may include authority in the executive, legislative and judicial fields with the central government as the holder of its powers. State lands can be divided into two parts, namely:

a. Free State Land (*VrijLandsdomein*), is land that is not owned with one right by a person or other party, based on the State's right of control over land, the State has full power to be able to give it with a right to Indonesian citizens or legal entities according to their needs. And its designation.

b. State land that is not free (*OnvrijLandsdomein*) is the right to control the State over land which may not override land rights that have been owned by Indonesian citizens, foreign nationals domiciled in Indonesia, and legal entities.<sup>8</sup>

The need for land will be inversely proportional to the fixed land area as the population grows each year. As a result, acquiring property for the development of government projects would become increasingly difficult because everyone owns and has rights to every inch of ground.<sup>9</sup> In Indonesia, legal disputes over land are common. People do not want any party to infringe on their rights. Essentially, the dispute settlement option can be completed in two (two) steps. The process of resolving disagreements in court develops into the process of resolving problems outside of court through cooperation (cooperative). This procedure of resolving disputes is generally referred to as the family process.<sup>10</sup>

Land disputes, conflicts, and/or cases submitted or reported to and handled by the National Land Agency constitute the typology of land cases, which are then roughly classified as:<sup>11</sup>

a. Land tenure without rights, namely differences in perceptions, values, or opinions, interests regarding the status of control over certain lands 28 that are not or have not been attached to rights (state land), or to which rights have been attached by a party.

b. Boundary disputes, namely differences of opinion, values of interest regarding the location, boundaries, and area of land parcels recognized by one party and have been determined by the National Land Agency of the Republic of Indonesia or those that are still in the process of determining boundaries.

c. Inheritance disputes, namely differences in perceptions, values, or opinions, interests regarding the status of control over land originating from inheritance

d. Multiple certificates, namely differences in perceptions, values, or opinions, interests regarding the status of control over land obtained from buying and selling to more than one person.

e. Replacement certificate, namely differences in perceptions, values, or opinions, interests, regarding a plot of land due to a fake sale and purchase deed

f. A fake sale and purchase deed, namely the existence of differences of opinion, the value of interest regarding the location, boundaries, and area of land parcels that have been determined by

<sup>5</sup>Pahlefi. 'Analisis Bentuk – Bentuk Sengketa Hukum atas Tanah Menurut Peraturan Perundang-Undangan di Bidang Agraria', (2014) Vol 25 Majalah Hukum Forum Akademika.

<sup>6</sup>J. T. Boboy, I.B. Santoso. 'Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt Dan Jeffrey Z.Rubin'. (2020) Notarius.Vol. 13 No. 2

<sup>7</sup>Y. C. Arwana, R. Arifin. 'Jalur Mediasi dalam Penyelesaian Sengketa Pertanahan Sebagai Dorongan Pemenuhan Hak Asasi Manusia'. (2019) Vol. 1 No. 2 Jambura Law Review.

<sup>8</sup>Y. Setiawan, B. Djatmiko. 'Pembatalan sertifikat hak atas tanah oleh peradilan tata usaha negara dengan alasan cacat yuridis aspek substantif' (2010) Vol. 28 No. 1 Jurnal Hukum Pro Justitia.

<sup>9</sup>H.S. Putra. 'Peranan Kantor Pertanahan Kota Bengkulu Sebagai Mediator Dalam Penyelesaian Sengketa Tanah.' (2022) No. 1, 7 Al-Imarah: Jurnal Pemerintahan dan Politik Islam.

<sup>10</sup>I.Y. Sitingjak. 'Aspek Hukum Mediasi Atas Sengketa Tanah Oleh Pihak Bpn.' (2019) Vol4 No 3. Jurnal Ilmiah Maksitek.

<sup>11</sup>I.G.A.M, Dinata, A.A.S.L, Dewi, L.P. Suryani. 'Peran Mediasi Dalam Penyelesaian Sengketa Sertipikat Gandadi Badan Pertanahan Nasional (BPN) Kabupaten Klungkung.' (2021) Vol 3 No 2 Jurnal Analogi Hukum.



the National Defense Agency of the Republic of Indonesia based on the wrong boundary designation.

g. Mistakes in the designation of boundaries, namely differences of opinion, values of interest regarding the location, boundaries, and area of the field that have been recognized by one party and determined by the National Defense Agency of the Republic of Indonesia based on the wrong boundary designation.

h. Overlapping, namely differences of opinion, values regarding the location, boundaries, and area of land parcels recognized by one particular party because there is an overlap in the boundaries of land ownership.

i. Judicial decisions, namely differences in perceptions, values, or opinions, interests regarding decisions of judicial bodies relating to the subject or object of land rights or regarding procedures for controlling certain land rights.

On the other hand, the government also must improve the welfare of the public. It is clearly explained about the importance and boundaries of land for the community and the state as the highest community organization in Indonesia as outlined in Article 33(3) of the 1945 Constitution, which states that:

"Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people."

The article explains that everything regarding natural resources along with water and other natural resources, including land that is in the territorial area of the Unitary State of the Republic of Indonesia, means controlled, regulated, managed, and distributed by the state or government with all its management institutions to be used for prosperity or for the welfare of all Indonesian people, where the state has the authority to regulate the existence of rights to the land. Article 4(1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (hereinafter referred to as UUPA) supports the law in Article 33 paragraph (3) of the 1945 Constitution. Later the government enacted and gazette Law Number 5 of 1960 concerning Basic Agrarian Principles (BAL).<sup>12</sup> One of the main objectives of the BAL is to lay the foundations for providing legal certainty regarding land rights for the people. The state has the authority to regulate ownership of land rights to individuals or legal entities.<sup>13</sup>

This is clearly regulated in Article 2(1) of BAL which states:

"On the basis of the provisions in Article 33(3) of the 1945 Constitution, and the matters as referred to in Article 1, the Earth, Water, and Space, including the natural resources contained therein, are at the highest level controlled by the State as a power organization. all the people."

Then what is meant by the right to control the state is explained again in Article 2(2) of BAL, namely:

"The state's right to control as referred to in paragraph 1 of this article gives the authority to:

1. Regulate and administer the designation, use, supply, and maintenance of Earth, Water, and Space.
2. Determine and regulate legal relations between people, Earth, Water, and Space.
3. Determining and Regulating Legal Relations between people and Acts concerning Earth, Water, and Space."

Everything regulated in the law aims to achieve the greatest prosperity to achieve a just and prosperous society. By referring to the law mentioned above, the state has the right according to its designation and use to give land to a person or legal entity.<sup>14</sup>As a sovereign country, Indonesia boasts a diverse range of cultures, arts, and customs that reflect the different tribes that occupy the archipelago.<sup>15</sup> As a result, each tribe has its unique culture in the territory of the Unitary State

<sup>12</sup>A. Khoirruni, A. Agustiwati, A. S. Bidari. 'Problematika Dan Penyelesaian Sengketa Tanah Melalui Mediasi Berbasis Virtual Di Indonesia.' (2022) Vol 11 No 1 Jurnal of Hospitality.

<sup>13</sup>Supriadi. *Hukum Agraria* (Sinar Grafika: Palu, 2006) p. 52

<sup>14</sup>A.A. Chomzah. 'Hukum Agraria (Pertanahan Nasional)' Vol 1, (Prestasi Pustaka: Jakarta, 2001) p. 29

<sup>15</sup>W. Adiansah. 'Resolusi Konflik Agraria Di Desa Genteng Kecamatan Sukasari Kabupaten Sumedang' (2019) Vol 1 No 1 Jurnal Kolaborasi Resolusi Konflik.



of the Republic of Indonesia (NKRI).<sup>16</sup>

As a sovereign country, Indonesia has diverse cultures, arts, and customs according to the many tribes that inhabit the entire archipelago. Therefore, every tribe in the Unitary State of the Republic of Indonesia (NKRI) territory has its own culture. For this reason, it is appropriate to think that the founders of the nation and the drafters of agrarian law made customary law the basis of national agrarian law<sup>17</sup>. Before forming the BAL and regulations regarding land were issued, customary law existed beforehand, which regulated various matters, including land. The national land law recognizes the existence of customary rights and the like from customary law communities, as long as in reality there are still things referred to according to the provisions of Article 3 of the BAL. Currently, lands belonging to customary law communities exist in diverse locations, with management, control, and exploitation based on local customary law requirements and acknowledged by customary law communities as their *ulayat* land.<sup>18</sup>

Currently, in various regions, there are still lands within the customary law community whose management, control, and use are based on local customary law provisions and are recognized by indigenous peoples as their customary land. Customary's rights show the legal relationship between legal communities (legal subjects) and certain lands or areas (legal objects). Customary rights contain the authority to:

- a. Regulate and organize land use, land supply, and maintenance;
- b. Regulating and determining the legal relationship between people and land (granting certain rights to certain subjects); and
- c. Regulate and obtain legal relations between people and legal actions relating to land.

The Law on Industrial Relations Issue Settlement, which governs conflicts between employers and employees in general, also states that if an industrial relations issue arises, it can be resolved through consensus agreement.<sup>19</sup> Property acquisition for the implementation of public-interest development in Indonesia continues to face significant challenges, including the presence of landowners who defend their ownership rights or are hesitant to renounce their property rights.<sup>20</sup> The new land law formed using materials from customary law, in the form of legal norms as outlined in legislation as written law, is a positive written national land law. BAL is the first result.<sup>21</sup>

Based on the provisions of the articles above, it indicates that the existence of indigenous peoples and customary law is recognized only if they do not conflict with legislation and national interests. However, the development of formal juridical national land law makes customary law the primary source of national land law development. The concept underlying national land law is customary law, such as religious communalism, which allows land to be controlled individually, with private land rights, and containing elements of togetherness.<sup>22</sup> With Indonesia's natural wealth, which has various tribes and customs, many customary laws apply in each region regarding land ownership.<sup>23</sup>

<sup>16</sup> R. Arifin. 'Revealing the Other Side of Human Rights Issue: How We Look to the Existed Various Problems'. (2017) Vol 2 No 1 Journal of Indonesian Legal Studies

<sup>17</sup> Supriadi, *op.cit.*, n. 13

<sup>18</sup> D.I. Perdana, Yuliana. 'Analisis Konflik Atau Sengketa Kepemilikan Tanah Adat Betang Sangkuwu Di Desa Tumbang Marak, Kalimantan Tengah' (2015) Vol 1 No 1 Jurnal Sosiologi Nusantara. 1

<sup>19</sup> B. Djaja. 'Quo Vadis Undang-Undang Pokok Agraria? Suatu Tinjauan Terhadap Permasalahan Pertanahan di Usia Undang-Undang Pokok Agraria yang ke Lima Puluh Delapan Tahun' (2018) Vol 16 No 1 Jurnal Ilmiah Ilmu Hukum.

<sup>20</sup> A.O.P. Silalahi, Suhadi, R.F. Anitasari. 'Analisis Hukum Terkait Konsultasi Publik dalam Pengadaan Tanah untuk Pembangunan Infrastruktur Jalan bagi Kepentingan Umum' (2017) Vol 12 No 1 Pandecta Research Law Journal

<sup>21</sup> S. Utomo, 'Nilai-Nilai Kearifan Lokal Hukum Adat dalam Hukum Tanah Nasional'. (2018) *Jurnal Hukum Media Bhakti*, p. 17

<sup>22</sup> Supriadi, *op.cit.*, n. 13

<sup>23</sup> D.R. Damayanti. 'Penyelesaian Sengketa Perjanjian Jual Beli Hak Milik Atas Tanah Dan Hambatan Hambatannya.' (2020) Vol 26 No 10 Dinamika: Jurnal Ilmiah Hukum



Customary rights are recognized for a certain customary law community as long as they are still in existence. The presence of customary heads and customary elders who act as bearers of power to govern control and guide the usage of customary land demonstrates the existence of customary rights in a community<sup>24</sup>. Based on changes in the community's need for legal certainty for customary dispute resolution, Law Number 6 of 2014 concerning Villages empowers customary villages to resolve customary law disputes that apply in customary villages as long as they are in accordance with human rights principles by prioritizing settlement through deliberation.<sup>25</sup>

The existence of customary rights is recognized for a certain customary law community as long as, in reality, it still exists. The existence of customary rights in a community can be seen from the existence of customary heads and traditional elders who act as bearers of the task of authority to regulate control and lead the use of customary land. Recognition of indigenous peoples has been explained in the Basic Agrarian Law in Articles 3 and 5, but there are exceptions and limitations to the recognition and application.<sup>26</sup> As stated in Article 3 of the BAL, which reads:

“Concerning the provisions of Articles 1 and 2, the implementation of customary rights and similar rights of customary law communities, as long as in reality they still exist, must be in such a way that it is in following national and state interests, which is based on national unity and must not conflict with higher laws and regulations.”

A customary law community related to land located within a territorial environment. There are two elements of customary rights, namely the element of ownership, which includes civil law obligations, and elements of the authority to regulate control and lead the use of shared land, which is included in the legal field. Customary rights are the name given by legal experts to legal institutions and the concrete legal relationship between indigenous peoples and their territorial lands. In the customary law literature, it is called (*beschikkingsrecht*) which island that is jointly controlled by members of the customary law community, where the management of it is carried out by the customary leader (customary head), and its use is intended for both the members of the customary law community concerned and outsiders. Instead, the state makes boundaries that all Indonesians, including indigenous peoples, must obey.<sup>27</sup> With the existing limitations, the Government in its legal politics will direct that one-day customary rights will be lost or eliminated. Even with the conditional recognition, the Government or investors can use it to seize land belonging to indigenous peoples.<sup>28</sup>

The customary rights of indigenous peoples are often sidelined with other interests regardless of the spiritual value possessed by a piece of land located within the territory of indigenous peoples. The protection and recognition of indigenous peoples are no longer visible. Like the conflict that occurred between PT. Rimba Lazuardi with the Domo Tribe, Pangkalan Village, Puncak Rantau District, Kuantan Singing Regency, Riau Province with the object of dispute in the form of communal land covering an area of approximately 5,000 hectares. In the dispute, the Domo Tribe considers PT. Rimba Lazuardi has taken control of customary lands by trespassing, controlling, and planting various plants on their land. Meanwhile, in carrying out its operational activities, PT. Rimba Lazuardi is always equipped with a permit issued by the Government through the Ministry of Forestry (now the Ministry of Environment and Forestry).

According to the explanation as in Article 12(1) of Law Number 39 of 2004 concerning Plantations which reads:

<sup>24</sup> F.F. Busroh. ‘Mediasi Sosial Dalam Menyelesaikan Konflik Lahan Milik Masyarakat Adat Di Indonesia.’ (2017) Vol 14 No 1 Lex Jurnalic.

<sup>25</sup> Winarsih. Pengakuan Penyelesaian Sengketa Adat dalam Undang-Undang Nomor 6 Tahun 2014 tentang Desa: Tinjauan Hukum yang Responsif dalam Reformasi Hukum Indonesia. (2017) Vol. 2. No. 2 Jurnal Ilmu Hukum Indonesia Legal Studies.

<sup>26</sup> Hendra, *op.cit.*, n. 1

<sup>27</sup> Hendra, *op.cit.*, n. 1

<sup>28</sup> S. Gloria, ‘Pengakuan Negara terhadap Hak Atas Tanah Adat bagi Masyarakat Adat dalam Sistem Hukum Indonesia’ Thesis Dissertation Fakultas Hukum Universitas Kristen Satya Wacana, (2012).



"In the event that the land required for Plantation Business Island with customary rights of the customary law community, plantation business actors must hold consultations with the customary law community holding customary rights to obtain approval regarding the transfer of land and the compensation".

This is clearly in contrast to what the Ministry of Forestry (now the Ministry of Environment and Forestry) did in granting a plantation land permit to PT. Rimba Lazuardi without transparency and prior deliberation with the Domo Tribe community who claimed the land resulted in conflict.

In this regard, the authors consider it very important to conduct research on "Land Conflict Resolution between PT. Jungle Blue with the Domo Tribe Community, Riau Province" so that a solution or the method adopted in resolving the disputes and the obstacles facing by the parties is studied to prevent similar problem from occurring in future in Indonesia.

### **Research Method**

This research used normative juridical research, namely in the form of an inventory of applicable laws and regulations by looking for the basic principles or philosophy of legislation or research to find the law of a particular case. In addition, it is explained that the normative juridical research method is library law research carried out by examining library materials or secondary data<sup>29</sup>.

The type of data in this study uses secondary data types: primary materials, secondary materials, and tertiary materials. Primary legal materials are as follows:

- a). Article 33(3) of the 1945 Constitution
- b). Article 18B(2) of the 1945 Constitution
- c). Article 2(4) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (BAL)
- d). Law Number 41 of 1999 concerning Forestry ("Forestry Law")
- e). Article 123(1) of Law Number 39 of 2004 concerning Plantations.

Secondary Data is used to help understand various legal concepts in primary legal materials. The analysis of secondary legal materials was obtained from various sources such as journals, books, news, media reviews, and other relevant sources. In addition, this study uses a law approach and a case approach about normative legal research. The statutory approach is carried out by highlighting several regulations related to the problem, while the case approach is carried out by reviewing cases related to the problem. The statutory approach means that this research highlights several statutory regulations as a basis for conducting research related to the issue. In contrast, the case approach is carried out by examining cases related to the problem. This study collects library data, focusing on reading and analyzing primary and secondary materials (such as legal dictionaries, textbooks, journal articles, case summaries, and legal encyclopedias).<sup>30</sup> Tertiary Legal Materials, these materials need to be used for various things to explain the meaning of words from secondary legal materials and primary legal materials, especially the Black Law Dictionary and the Great Indonesian Dictionary (KBBI).

Data collection techniques in this study used library research techniques. Library research is carried out using literature, either in the form of books, notes, or reports on the results of previous research<sup>31</sup>. Data obtained through library research will be tabulated, then secondary data is systematized by selecting legal instruments relevant to the object of research. The technique is helpful for obtaining a theoretical basis by studying and studying books, laws and regulations, documents, reports, archives, and other research results, both printed and electronic.

All data that has been obtained and collected is then analyzed and analyzed qualitatively. Qualitative data analysis was carried out by selecting articles containing legal principles. Then, the researchers systematically made the articles to produce certain classifications according to the

<sup>29</sup> B. Sunggono, *Metodologi Penelitian Hukum*, (Raja Grafindo Persada: Jakarta, 2003) 27-28.

<sup>30</sup> M. McConville, W.H. Chui, *Research Methods for Law*, (Edinburgh University Press: Edinburgh 2012) 47.

<sup>31</sup> I. Hasan, *Analisis Data Penelitian Dengan Statistik*, (Bumi Aksara: Jakarta 2008) 5



problems discussed in this study. The qualitatively analyzed data is presented in the form of a systematic description by explaining the relationship between various types of data. All data were selected and processed and then analyzed descriptively so that in addition to describing and revealing answers to the problems raised, it is expected to provide solutions to the problems in this study.

Conclusions are drawn using deductive-inductive logic of thinking, which is carried out with the theory used as a starting point for conducting research. Deductive means using theory as a tool, measure and even an instrument to build hypotheses. Inductive theory uses data as a starting point for conducting research. Even in an inductive format, does not know theory at all, meaning that theory and theory are not important. Therefore, deductive-inductive draws conclusions based on the theory used at the beginning of the study and the data obtained to prove the theory.

## FINDINGS AND ANALYSIS

### Overview

#### *Research Location*

The research location in this paper is in Pangkalan Village, Pucuk Rantau District, Kuantan Singingi Regency, Riau Province. The base village is one of the villages resulting from the division of a new sub-district, namely the Pucuk Rantau sub-district. This sub-district is the result of the division of the Kuantan Mudik Sub-district, which was determined based on Regional Regulation Number 24 of 2012 concerning the Establishment of the Sebrang Hilir District of Kuantan, Sentajo Raya District, and Pucuk Rantau District in Kuantan Singingi Regency, Pucuk Rantau District, which has an area of  $\pm 561 \text{ km}^2$ .<sup>32</sup>

#### *Research Object*

The parties to the conflict are PT. Rimba Lazuardi with the Domo Tribe. PT. Rimba Blue is a company engaged in Industrial Plantation Forests. In the conflict that occurred, PT. Rimba Lazuardi already has a permit issued by the Government through the Ministry of Forestry (now the Ministry of Environment and Forestry). However, the Domo tribe claims that the land that is the object of the dispute is customary land that has been controlled for a long time because the Domo tribe has carried out actions or work on the disputed land, such as planting fruit, building wooden houses which are used as villages, and making graves. The Domo Tribe community claims to be a customary law community that has existed and has lived in the area for a long time. The Domo tribe is one of the small tribes that is part of the Kampar Tribe<sup>33</sup>

#### **A. Settlement of Land Disputes between PT. Rimba Lazuardi with the Domo Tribe Community**

Settlement of disputes that occurred between PT. Rimba Lazuardi with the Domo Tribe Community has 2 (two) stages. The first stage is a direct conflict resolution through deliberation and the second stage is through a civil trial which is submitted to the Class II Rangat District Court. The conflict began when the Domo tribe descended from Datuk Sati, considered PT. Rimba Blue has unilaterally controlled his customary land by entering without permission, controlling and planting various kinds of plants such as sengon, lykaliktus (timber trunk), and others since 1997. Previously, PT. In carrying out its operations, Rimba Blue has received permission from the Minister of Environment and Forestry of the Republic of Indonesia (formerly the Minister of Forestry), namely: Decree of the Minister of Article 2(4) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (BAL)

1. No. 361/Kpts-II/1996 dated July 10, 1996, concerning the Granting of Concession Rights for Industrial Plantation Forests for Transmigration Patterns over Forest Areas covering an area of

<sup>32</sup> R. Ruspianda, R. A, Jafra, R, Pratiwi. 'Identifikasi Potensi Wilayah Desa Pangkalan Kecamatan Pucuk Rantau Kabupaten Kuantan Singingi' (2019) Vol 1 No 2 Jurnal Planologi Dan Sipil (JPS), 135-147.

<sup>33</sup> Mahkamah Agung Republik Indonesia Pengadilan Negeri Bangka, 2016, *PESONA KAMPAR: Sejarah Mulanya Masyarakat Kampar*. URL (access 16 August 2023) <https://www.pn-bangkinang.go.id/?link=TampilPesonaSejarahMasyarakatKampar>



±12,600 (twelve thousand six hundred) hectares in the provincial level II Riau province to PT Rimba Lazuardi.

2. Letter of the Minister of Forestry No. 727/Menhut-IV/1997 dated June 20, 1997, concerning Approval for Addition of Reserved Areas for Industrial Plantation Forests for the Transmigration Pattern covering an area of ± 10,910 (ten thousand nine hundred and ten) Jo. Decree of the Minister of Forestry No. 79/Menhut-II/2017 dated March 05, 2007, concerning amendments to the Decree of the Minister of Forestry No. 361/Kpts-II/1996 dated July 10, 1996, concerning the Granting of Concession Rights for Industrial Plantation Forests for Transmigration Patterns over Forest Areas covering an area of ±12,600 (twelve thousand six hundred) hectares in the province-level II Riau to PT. Rimba Lazuardi.

3. Decree of the Minister of Environment and Forestry No. 2257/MenLHK-PHPL/UHP/HPL-1/4/2017 dated April 17 2017 concerning the First Addendum to the Decree of the Minister of Forestry No. 79/Menhut-II/2007 dated March 05, 2007 concerning Amendments to the Decree of the Minister of Forestry No. 361/Kpts-II/1996 dated July 10, 1996 concerning the Granting of Concession Rights for Industrial Plantation Forests for the Transmigration Pattern over a Forest Area of ± 12,600 (twelve thousand six hundred) hectares of Riau Province Level I Region to PT. Rimba Lazuardi is an area of ± 23,340 (twenty-three thousand three hundred forty) hectares.<sup>34</sup>

In his claim as the owner of the customary land controlled by PT. Rimba Lazuardi, the Domo tribe, has a certificate of land ownership originating from the heirs/descendant of Datuk Sati (late) with a statement including:

1. A statement dated March 24, 1999, regarding the customary land area of ±5,000 HA belonging to the plaintiff's Ninik Mamak, namely Bujangganti (Datuk Sati) made by BujangGonti with the title Datuk Sati (late) regarding the boundaries of the land, including:
  - a. In the east, it is bordered by Batang Kelawan (Datuk Mangun) land
  - b. In the west, it is bordered by customary land (Datuk Majo)
  - c. To the north it is bordered by Pematang Banda (*Ulayat* Datuk Ibul menuju sialang Datuk Api)
  - d. To the south, it is bordered by the Kuwau Balumunik Target (Datuk Tanggo Rajo) towards the Kelawaean trunk of Lubuk Padang Larang.
2. A statement dated December 11, 2009 which was signed by Dullah Haman as Ninik Mamak Pesajian/as a hereditary progenitor through the mother's lineage with one of its contents reading "that it is true that there is customary land of Datuk Sati Domo tribe in the base village which is located in the Lago River water. BatangBarangin, which is currently managed by the descendants of the Domo tribe's nephews to be used as customary land"
3. Certificate of December 2009 regarding certificate of customary land of Datuk Sati Doma tribe of the base village with territorial boundaries as follows:
  - a. In the east it is bordered by (Datuk Mangun) *ulayat* land in Sei Batang Kelawaran;
  - b. In the west it is bordered by *ulayat* land (Datuk Paduko Majo)
  - c. To the north, it is bordered by Pematang Bandu (the *ulayat* land of Datuk Ibul) towards the Sialang Datuk Api, the Konang Nani River
  - d. To the south, it is bordered by the KuauBalumulik target towards the stem kelawaranLubuk Padang Lalang, the *ulayat* land of Datuk Tango Rajo<sup>35</sup>

Then one of the contents of the letter stated that on behalf of all Ninik Mamak in the village of offerings, they had never handed over or sold the customary land of Datuk Sati to any party. This agreement letter has been signed by Ninik Mamak DesaPesajian, Datuk Mangun, and Datuk Pateh.

1. Certificate of Communal Land of Datuk Sati dated June 6, 2010, which explains that it is true that there is customary land that belongs to Datuk Sati in Taratak Air Lago Anak Tamanak

<sup>34</sup>Pengadilan Negeri Rengat, Putusan No. 29/Pdt.G/2018/PN. Rgt, p 32

<sup>35</sup>Ibid, p 3





Sungai BatangBeringin, and that it is true that the existence of the customary land has been recognized under applicable customary law, which is signed by Dullah Haman (Datuk Mangun), Ali Usma (Datuk TanggoRajo), Desman (Datuk Sati), Syahril (Datuk Ibul) and known by the head of the Ibul village, Bonsu Bardi and the Head of Saipul Village.

2. Certificate of customary land, which is customary land belonging to Datuk Sati, the base village of Kuantan sub-district, Kuantan Singingi district, on January 23, 2012, which one of its contents explains that it is true that there is customary land which is Datuk Sati's customary land located in Taratak Air Lago Soft The BatangBeringin river park to the BatangKelawaran river covers an area of approximately 5,000 hectares. The certificate has been signed by:

- a. Datuk Mangun/Dullah Haman (Pesajen Village);
- b. Datuk TanggoRajo/Ali Usman (Setang Village);
- c. Datuk Panghulu Mudo/Samsinar (Base Village);
- d. Datuk Ibu/syahril (Ibul Village)

3. Certificate of customary land of Datuk Sati, Pangkalan Village, Pucuk Rantau District, Kuantan Singingi Regency dated February 15, 2013, which contains the boundaries of the customary land and a statement that it is true that the customary land is actually Datuk sati's customary land. This certificate has been signed by:

- a. Datuk Mangun/Dullah Haman (Pesajen Village);
- b. Datuk Tanggo Rajo/Asri (Setang Village);
- c. Datuk Panghulu Mudo/Samsinar (Base Village);
- d. Datuk Panduko Besar/Jamirda (Base Village);
- e. Datuk Ibul/Syahril, (Ibul Village).<sup>36</sup>

As a step in resolving the dispute, the tribal community on November 25, 2012 the head of the Domo Tribe made the first letter Number: 03/SD-ST/XI-20013 containing an invitation to the leadership of PT Rimba Blue. However, PT. Blue Forest. Then On July 14, 2013 PT. Rimba Lazuardi with the Pangkalan Village Community representatives and the Domo Tribe *adat* leaders took a joint decision, one of which reads "Will not take concession/company land or the Domo Tribe *adat* land in Pangkalan Village for a while prior to a meeting (socialization) from PT. Rimba Lazuardi with the Pangkalan Village community". But PT. Rimba Lazuardi violated the agreement that had been made by carrying out planting and logging activities.<sup>37</sup>

Because they could not find an agreement, representatives of the Domo tribe, namely Mamak Tribal Chief (Desmen DT, Sati), Monti (Darwin), Dubalang (Samsirizal), and Malin (Thamrin) made a last warning letter on December 16, 2013 one of which reads "if by December 25, 2013 there was no settlement from PT. Rimba Lazuardi and the Domo Tribe, we clamped the land in the name of the Domo Tribe." In order to follow up on the warning letter, then on February 4, 2014, a meeting was held on the settlement of the customary land claims of the Domo Tribe in Pangkalan village with PT. Rimba Lazuardi, which was attended by Budi Asrianto, S.Sos (Camat of Pucuk Rantau), Zulkarnain, SE. (KapolsekKuantan Mudik), AchyarSugianta (Pt. Rimba Lazuardi Public Relations), Samsurizal (Sati Tribe Domo). From the results of the deliberations, it was agreed that in the form of minutes, among others:

1. Domo Tribe Acknowledging the permit owned by PT Rimba Lazuardi, which was issued by the Minister of Forestry, the Domo Tribe asked PT. Rimba LAzuardi to provide compensation for the customary land he manages to the Domo Tribe Community;
2. To provide 800 hectares of transmigration land to the Domo Tribe;
3. Land that has not been managed by PT. Rimba Lazuardi to be handed over to the Domo Tribe community for cultivation; and

<sup>36</sup> 2 Ibid, p. 5

<sup>37</sup> Ibid, p. 10



4. Forming a Verification Team for the settlement of customary lands of the Domo Tribe against PT. Blue Forest.<sup>38</sup>

The results of the deliberation held on February 4, 2014, were not carried out properly and on time. Then the Domo Tribe took the initiative to write a letter to the Chairman of Commission II of the DPR RI, which was signed by the Domo Tribe's nephew but got stuck. Then it continued with a hearing which was held on December 16, 2016, which was chaired directly by the Chairperson of Commission A of the Kuansing DPRD, and attended by the Chairperson of the Kuansing DPRD Andi Putra, members of Commission A, BPN Kuansing, Forestry Service, Defense Section, Head of Pucuk Rantau Subdistrict, Setiang Village Head, leaders of the Setiang community and the Setiang community. The obstacle that occurs is the representative of PT. Rimba Blue was not present at the event.<sup>39</sup>

After various ways have been done but have not found a bright spot, Datuk Sati's descendants or heirs, namely Desman Heri Elpis (Mamak head of inheritance), Syamsirizal (Dubalang Datuk Sati) sued PT. Jungle Blue at the Renggat District Court Class II on October 8, 2018. Article 3 of the BAL explains that:

“The implementation of customary rights and similar rights of customary law communities as long as in reality they still exist must be in such a way that they are in accordance with the national and state interests, which are based on national unity and may not conflict with other laws and regulations is higher.”

The article explains the requirements that must be met by customary rights according to article 3 of the UUPA are:

1. As long as the reality is still there, in the explanation of Article 4 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning number 10 of 2016 that a customary law community is recognized, if in reality, it fulfills the following elements:

- a. The community is still in the form of an association,
- b. There are institutions in the form of traditional rulers,
- c. There is a clear customary law area, and
- d. There are legal institutions and instruments, especially customary courts, which are still being adhered to.

Not against the law and in accordance with the national interest, Article 18B(1) (1) of the 1945 Constitution states that:

“The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with developments society and the principles of the Unitary State of the Republic of Indonesia.”

Although all of these requirements are met, in the end, the recognition lies with the regional government, which has the authority to determine and give recognition to customary rights in their respective regions through Regional Regulations. Therefore, in determining the customary law community and their customary rights, it is necessary to carry out careful discussion and research involving the Regional Government, the local National Land Agency, Customary Law Experts, Camat, Village Heads and 55 other related parties to determine whether the area is a legal custom community. Determination of communal rights in certain area communities is also regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 9 of 2015 concerning Procedures for Determining Communal Rights to Land of Customary Law Communities and Communities in Certain Areas, that it is not only customary law communities who have the right on communal rights but also for people living in certain areas with the procedures in the ministerial regulation.

Based on the explanation above, customary law communities can be recognized if there is

<sup>38</sup> Ibid, p. 11

<sup>39</sup>R. Susanto, Terungkap, PT Rimba Lazuar di Pucuk Rantau Tidak Terdaftar di BPN, URL (access on 16 August, 2023) <https://www.halloriau.com/read-kuansing-88156-2016-12-18-terungkap-pt-rimba-lazuardi-pucukrantau-tidak-terdaftar-di-bpn.html>.



recognition by the Regional Government and even though they are not in the form of customary law communities, communities in certain areas can have communal rights objects as long as their existence can be proven.

Of the six certificates of ownership of customary land owned by the Domo Tribe cannot be said to be valid proof of ownership because the proof of ownership of customary land is only a one-sided claim made by the Domo Tribe because legal land ownership must involve the District Land Office or apply for determination. Communal rights over lands of customary law communities and communities to the Regent/Mayor or Governor. AbridalSPd.i, Datuk Lenggang Manggarajo, also stated that there were no documents regarding the ownership of Datuk Sati because in the past Datuk were very unfamiliar with licensing.

Due to not being able to prove that the land covering an area of ±5,000 ha, which is the object of the dispute, belongs to the Domo Tribe, the Domo Tribe's claim was rejected entirely and resulted in the Domo Tribe having to pay the court fees in full.

### **B. Obstacles in the Dispute Resolution Process between PT. Rimba Lazuardi with the Domo Tribe Community**

To settle disputes, the Domo tribe has repeatedly made statements and held deliberations with PT. Rimba Lazuardi, however, did not find a clear spot until the Domo Tribe community demanded PT. Rimba Blue to the Renggat Class II District Court on October 8, 2018. Obstacles arising from the dispute resolution process between PT. Rimba Lazuardi is the failure of mediation, among others:

1. A letter was written on November 25, 2012 as the first warning letter to PT. Rimba Lazuardi, but this company has never implemented or responded to the warning letter.<sup>40</sup>
2. After the letter dated November 25, 2012, was not appropriately implemented, and the Domo tribe held a meeting with PT. Rimba Lazuardi, dated July 14, 2013, with one of the results of the deliberations, stated that they would form a verification team for the settlement of the customary lands of the Domo Tribe for the land of PT. Rimba Lazuardi. The deliberations on July 14, 2013 encountered problems because until the completion of the decision the verification team in question had not yet been formed and PT. Rimba Lazuardi is considered not to have carried out the results of the deliberation.<sup>41</sup>
3. The hearing was held on December 16, 2016 which was chaired directly by the Chairperson of Commission A of the Kuansing DPRD and attended by the Chairperson of the Kuansing DPRD Andi Putra, members of Commission A, BPN Kuansing, Forestry Service, Defense Section, Head of Pucuk Rantau Sub-district, Setiang Village Head, Setiang community leaders and the people of Setiang. The obstacle that occurs is the representative of PT. Rimba Lazuardi was not present at the event<sup>42</sup>. The *Langkat* is appropriate as an effort to resolve disputes which refers to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Defense Number 11 of 2016 concerning Settlement of Conflicts in Land Cases in Article 4, which states; "Dispute and conflict resolution is carried out based on either initiative from the ministry, or Public Complaints".

### **CONCLUSION**

In the process of resolving disputes that occurred between PT. Rimba Lazuardi and the Domo Tribe community have two dispute resolutions: the mediation process and the judicial process. The mediation process did not find a bright spot, so it continued with the judicial route. In the judicial process, the Domo Tribe community cannot show evidence that the land that is the object of the dispute is their land because the proof of evidence owned by the Domo Tribe is only an individual claim letter, while the proof of legal land ownership is that the local government has recognized the evidence.

<sup>40</sup>Pengadilan Negeri Rengat, *op. cit.*, n. 34

<sup>41</sup> *Ibid*

<sup>42</sup>Susanto, *op. cit.*, n. 39

Efforts in resolving land disputes between PT. Rimba Lazuardi and the Domo Tribe do not always go well. In the paragraph above, it has been explained that the mediation process carried out by both parties did not come to light due to various things in the first mediation, PT. Rimba Lazuardi did not respond and carried out the warning letter. Second, there is no verification team until the decision is completed in accordance with the deliberation that has been carried out. Lastly, PT. Rimba Lazuardi was not present at the event, which was chaired directly by the Chairman of Commission A of the Kuansing DPRD.

## REFERENCE

- [1] A.A. Chomzah. 'Hukum Agraria (Pertanahan Nasional)' Vol 1, (Prestasi Pustaka: Jakarta, 2001)
- [2] W. Adiansah. 'Resolusi Konflik Agraria Di Desa Genteng Kecamatan Sukasari Kabupaten Sumedang' (2019) Vol 1 No 1 Jurnal Kolaborasi Resolusi Konflik.
- [3] A.G. Bangun, Y. Muhammad, A. Akhyar. 'Analisis Hukum Penyelesaian Sengketa Tanah Melalui Mediasi'. (2022) Jurnal Hukum dan Kemasyarakatan Al-Hikmah.
- [4] A.O.P. Silalahi, Suhadi, R.F. Anitasari. 'Analisis Hukum Terkait Konsultasi Publik dalam Pengadaan Tanah untuk Pembangunan Infrastruktur Jalan bagi Kepentingan Umum'(2017) Vol 12 No 1 Pandecta Research Law Journal
- [5] Khoirruni , A. Agustiwi, A. S. Bidari. 'Problematika Dan Penyelesaian Sengketa Tanah Melalui Mediasi Berbasis Virtual Di Indonesia.' (2022) Vol 11 No 1 Jurnal of Hospitaly.
- [6] Djaja. 'Quo Vadis Undang-Undang Pokok Agraria? Suatu Tinjauan Terhadap Permasalahan Pertanahan di Usia Undang-Undang Pokok Agraria yang ke Lima Puluh Delapan Tahun' (2018) Vol 16 No 1 Jurnal Ilmiah Ilmu Hukum.
- [7] Sunggono. Metodologi Penelitian Hukum, (Raja Grafindo Persada: Jakarta, 2003) 27-28 M. McConville, W.H. Chui, Research Methods for Law, (Edinburgh University Press: Edinburgh 2012) 47.
- [8] Constitution of Republic Indonesian 1945, Article 33(3), Article 18B(2)
- [9] D.I. Perdana, Yuliana. 'Analisis Konflik Atau Sengketa Kepemilikan Tanah Adat Betang Sangkuwu Di Desa Tumbang Marak, Kalimantan Tengah' (2015) Vol 1 No 1 Jurnal Sosiologi Nusantara. 1
- [10] D.R. Damayanti. 'Penyelesaian Sengketa Perjanjian Jual Beli Hak Milik Atas Tanah Dan Hambatan Hambatannya.' (2020) Vol 26 No 10 Dinamika: Jurnal Ilmiah Hukum
- [11] F.F. Busroh. 'Mediasi Sosial Dalam Menyelesaikan Konflik Lahan Milik Masyarakat Adat Di Indonesia.' (2017) Vol 14 No 1 Lex Jurnalic.
- [12] Hendra H, "Perlindungan Konsumen Jasa Transportasi Online di Kota Banda Aceh (Ditinjau Dari Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen)" Thesis Dissertation, UIN Ar-Raniry, (2020).
- [13] H.R. S, Ningrum. 2014, 'Analisis Hukum Sistem Penyelesaian Sengketa Atas Tanah Berbasis Keadilan', (2014) Vol. 1 No. 2 Jurnal Pembaharuan Hukum.p. 219-227
- [14] H.S. Putra. 'Peranan Kantor Pertanahan Kota Bengkulu Sebagai Mediator Dalam Penyelesaian Sengketa Tanah.' (2022) No. 1, 7 Al-Imarah: Jurnal Pemerintahan dan Politik Islam.
- [15] I.G.A.M, Dinata, A.A.S.L, Dewi, L.P. Suryani. 'Peran Mediasi Dalam Penyelesaian Sengketa Sertipikat Gandadi Badan Pertanahan Nasional (BPN) Kabupaten Klungkung.' (2021) Vol 3 No 2 Jurnal Analogi Hukum.
- [16] Hasan, Analisis Data Penelitian Dengan Statistik, (Bumi Aksara: Jakarta 2008) 5
- [17] I.Y. Sitingjak. 'Aspek Hukum Mediasi Atas Sengketa Tanah Oleh Pihak Bpn.' (2019) Vol4 No 3. Jurnal Ilmiah Maksitek.
- [18] Law Number 39 of 2004 (Plantations), Article 12(1), Article 123(1)
- [19] Law Number 5 of 1960 (Basic Agrarian Principles), Article 2(1), Article 2(2), Article 2(4)
- [20] Law Number 41 of 1999 (Forestry).
- [21] Pahlefi. 'Analisis Bentuk - Bentuk Sengketa Hukum atas Tanah Menurut Peraturan Perundang-Undangan di Bidang Agraria', (2014) Vol 25 Majalah Hukum Forum Akademika.
- [22] R. Arifin. 'Revealing the Other Side of Human Rights Issue: How We Look to the Existed Various Problems". (2017) Vol 2 No 1 Journal of Indonesian Legal Studies
- [23] Rengat District Court, Decision Number 29/Pdt.G/2018/PN. Rgt
- [24] R. Susanto, Terungkap, PT Rimba Lazuar di Pucuk Rantau Tidak Terdaftar di BPN, URL (access on 16 August, 2023) <https://www.halloriau.com/read-kuansing-88156-2016-12-18-terungkap-pt-rimba-lazuardi-pucukrantau-tidak-terdaftar-di-bpn.html>.
- [25] 25. R. Ruspianda, R. A, Jafra, R, Pratiwi. 'Identifikasi Potensi Wilayah Desa Pangkalan Kecamatan Pucuk Rantau Kabupaten Kuantan Singingi' (2019) Vol 1 No 2 Jurnal Planologi Dan Sipil (JPS), 135-147.



Mahkamah Agung Republik Indonesia Pengadilan Negeri Bangka, 2016, PESONA KAMPAR: Sejarah Mulanya Masyarakat Kampar. URL (access 16 August 2023) <https://www.pn-bangkinang.go.id/?link=TampilPesonaSejarahMasyarakatKampar>

- [26] S. Utomo, 'Nilai-Nilai Kearifan Lokal Hukum Adat dalam Hukum Tanah Nasional'. (2018) *Jurnal Hukum Media Bhakti*
- [27] S. Gloria, 'Pengakuan Negara terhadap Hak Atas Tanah Adat bagi Masyarakat Adat dalam Sistem Hukum Indonesia' Thesis Dissertation Fakultas Hukum Universitas Kristen Satya Wacana, (2012). .
- [28] Supriadi. *Hukum Agraria* (Sinar Grafika: Palu, 2006)
- [29] J. T. Boboy, I.B. Santoso. 'Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt Dan Jeffrey Z.Rubin'. (2020) *Notarius*.Vol. 13 No. 2
- [30] J.T. Rosina, 'Analisis Yuridis Penyelesaian Sengketa Tanah Melalui Mediasi.' (2022) Vol 24 No 2 *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*.
- [31] Winarsih. *Pengakuan Penyelesaian Sengketa Adat dalam Undang-Undang Nomor 6 Tahun 2014 tentang Desa: Tinjauan Hukum yang Responsif dalam Reformasi Hukum Indonesia*. (2017) Vol. 2. No. 2 *Jurnal Ilmu Hukum Indonesia Legal Studies*.
- [32] Y. C. Arwana, R. Arifin. 'Jalur Mediasi dalam Penyelesaian Sengketa Pertanahan Sebagai Dorongan Pemenuhan Hak Asasi Manusia'. (2019) Vol. 1 No. 2 *Jambura Law Review*.