ANALYSIS OF LEGAL CONSIDERATIONS OF COURT INSTITUTIONS IN DECIDING CASES RELATED TO GRANT SULTAN LAND IN INDONESIA

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Abstract *– The purpose of the study is to analyze legal considerations of court institutions in deciding cases related to land grants by the sultan in Indonesia. The type of research conducted in this study is a normative juridical research which includes a historical approach (historical approach) and a statutory approach. The data sources of this research are primary data or library data or literature obtained or sourced from legal materials. Data collection techniques include interview studies, library research, and field research in various institutions, agencies and private sectors. The data collection tool used is an interview guide involving informants. The results of this study found that The judge's consideration, in the court's decision, is that the judge does not understand the Grant Sultan Criteria to make the Decision, it is suggested that the judge can be guided by the Grant Sultan Criteria which can be the guideline for the Court's Decision. The establishment of a Land Court is possible, to measure the effectiveness of the performance of the judiciary, especially regarding customary land.*

Keywords*: Legal; Court; Consider-tion; Sultan; Land*

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INTRODUCTION

Prior to the independence of Indonesia on August 17, 1945, Indonesia still adhered to a monarchical system of government/state administration, in which the de facto existence of the Kingdom and the Sultanate had the official power and authority to run the wheels of government, including more specifically regarding the application of customary law, civil rights, and rights to control and manage or acquire land ownership right[1].

Land problems often occur in Indonesia and until now have not found a complete solution. To resolve land disputes in Indonesia, legal provisions are needed whose substance is based on the principles of justice and legal certainty as stated in Pancasila and the 1945 Constitution which are the philosophical basis and constitutional foundation of the Republic of Indonesia.

When viewed from a historical perspective, the land issue in East Sumatra began with the entry of a Dutch plantation company (Ordeneming). At first people did not need a letter, because the vast expanse of land spread out and the population was small. After the arrival of plantation companies, which requires a large area of land and requires certainty about the boundaries of the land, which is handed over to them, a new factor arises in land tenure, namely, people are no longer able to travel freely, move freely to cultivate the land as they please [2]. The habit of moving began to diminish and was taken up by the desire to settle on a certain piece of land, and at the same time there was a desire for the right to land to be recognized by the authorities, namely the Deli Sultanate.

The Deli Sultanate used land regulations in East Sumatra. That is why the Deli Sultanate is one of the regions of the Swapraja region which has its own land laws and regulations that are not found in other areas. As for what is meant by Swapraja land is the entire regulation on land that is specifically applicable in the Swapraja area. The form of the Sultan's Grant is to determine the Garden Rights, for the people of the village of Matsum Medan, the Sultan gives land rights, not to determine the garden

as "Rahim Limpah Kurnia". In both of these forms, namely to determine "Rights for Gardens and Rahim Limpah Kurnia" conditions are included regarding the abolition of rights if they are not cultivated and regarding surrender with the permission of the Sultan. The lands that were concessioned by the Deli Sultanate with Dutch plantation companies were free from private ownership [3]. Although in the future this will become a problem that is getting more and more confusing because of the large number of sultan's grants that have been issued on the concession lands.

Grant Sultan is not all listed in the book. After the Social Revolution in 1946, the Deli Sultanate family partly left the Maimoon Palace and partly lived in the palace [4]. Blank Grant Sultan is still there in the palace which was then widely used by other parties in the future to claim lands in the territory of the Deli Sultanate. Unfortunately, the claim reached the location of the concession land where there was no longer a Sultan Grant, in other words, on the concession land there was no Sultan's grant as proof of private ownership. Prior to the enactment of the Basic Agrarian Law, land law in Indonesia was influenced by conditions during the colonial era which was dualism.

In Law Number 5 of 1960 concerning Basic Agrarian Provisions (UUPA), customary land rights are recognized. Article 3 states: bearing in mind the provisions in Articles 1 and 2, the implementation of customary rights and similar rights of customary law communities, as long as they still exist, must be in such a way that it is in accordance with the social and state interests, based on national unity and must not conflict with the highest laws and regulations. In connection with the instructions to the Government to carry out land registration with the aim of ensuring legal certainty, the question that arises is why the Government has an interest in providing legal certainty over land rights. It is land [5].

In fact, there was a problem with the land of Gant Sultan, because the problem with Grant Sultan's land had not been fully recorded and registered in Grant's land registration book at the National Land Agency (BPN), The application for rights, which was submitted by the parties to the National Land Agency, Grant Sultan is not registered in the book of Grant Sultan even more than one holder of Grant Sultan is in the same location and the Grant Holder does not know the Location of Land of Grant Sultan so that legal certainty has not been reached [6]. BPN does not have the authority to test materially regarding the existence or criteria of Grant Sultan, BPN only issues a Certificate of Grant Sultan which is registered with BPN. If the parties wish to prove the validity of the Sultan's Grant, then the parties can file a lawsuit to the Court. The registration of land rights or the granting of land rights to all rights subjects are also given the authority to use the land according to its designation [7].

Disputes arise because of complaints from people (institutions) containing objections and claims for land rights both on land status, priority and ownership in the hope of obtaining administrative settlements in accordance with applicable regulations [8]. Uncertainty about the guarantee of determining the rightful holder of the Land Grant Sultan Melayu Deli, because it is not properly registered, some of the Grant Sultan are double and the numbers are not sequential (jumping).

1. Problem

The parties object to submitting the Sultan's Lawsuit to the Court. The criteria for determining the Grant Sultan have not been effective, resulting in a dispute between the Holders of the Grant Sultan through various Judicial Bodies

2. Research Methods

The The type of research conducted in this research is normative juridical research, namely research that is focused on examining the application of positive legal rules or norms and this research only focuses on Grant Sultan's land. The nature of this research is prescriptive research, which is to determine what is wrong and what is right. In other words, normative studies examine law in books. The normative study of the world is das sollen (what should be). The approach used in this research is a normative juridical approach which includes a historical approach, which is to clarify the thinking structure of the people who claim and occupy customary lands. Techniques and data collection was carried out using literature studies, namely studies examining various documents, journals, mass media, online both related to legislation and existing documents and field studies interviews with

sources, namely legal experts, legal academics, legal practitioners, the Deli Sultanate, especially Agrarian Law and the National Land Agency.

The data collection tool used is an interview guide involving informants such as the National Land Agency Mindo Desima Sianturi, Head of the Land Affairs Section and the Land Court, the District Court Jarihat Simarmata Judge of the District Court, the Deli Sultanate Tengku Hamdy Osman Delikhan Al-Haj (Raja Muda) and others who related to the title of the Dissertation, Court Decision. Furthermore, the data were analyzed qualitatively by starting by examining all available data from various sources, namely from interviews, observations that have been written down in field notes, personal documents, official documents, pictures, photos and so on. After reading, studying and reviewing, the next step is to carry out data reduction, which is done by doing abstraction.

3. DISCUSSION

Dispute Resolution Through Courts (Litigation)

The importance of land for the life of the Indonesian people and nation is regulated in Article 33 paragraph (3) of the 1945 Constitution as the foundation of the Republic of Indonesia's Constitution. In this case, the state has the right to control Indonesian land. Based on this regulation, it is authorized to regulate land rights and serve the people in the land sector. The authority in the land sector is carried out by the National Land Agency which has offices in every provincial city. Indonesia based on article 1 paragraph (3) of the 1945 Constitution, Indonesia is classified as a state of law as agreed by all the Indonesian people for the rule of law [9].

The state administration system in Indonesia gives legitimacy to the judiciary to decide cases (disputes) independently without intervention from any party. In Law Number 32 of 2004 concerning Regional Government, Article 33 and Article 14 paragraph 1 letter (K) which regulates the service in the land sector is a mandatory affair under the authority of the Provincial/Regency/City Government which is delegated to the Regional Government, in fact it creates new problems. , namely regarding the form of institutions, division of tasks, work programs and services for the land sector so that the UUPA can be implemented in its entirety and in line with Law no. 32 of 2004 [10].

Dispute In fact, since there have been differences in interests between one human and another [11]. Customary land disputes are found everywhere, not least in Indonesia. These land-related disputes are constantly growing, often with increasing human demand for land. In general, land disputes arise due to the following factors: Incomplete regulations, non-compliance with regulations, land officials who are less responsive to the needs and amount of available land, inaccurate and incomplete data, incorrect data, limited human resources tasked with resolving land disputes, wrong land transactions, acts of rights applicants or there are settlements from other agencies so that overlapping settlements of land that have not been registered are generally carried out by local community leaders [12].

These figures include traditional heads. Tribal chief. The village head, or clan head. The role of these figures is very decisive in resolving land disputes. In addition, the role of community leaders helps determine the allocation and supervision of land use by local residents. This is because of the local customary head/chairman [13].

Land disputes are unavoidable nowadays, this is due to the very high demand for land nowadays while the number of plots of land is limited. This demands improvements in the field of land management and use for the welfare of the community and especially its legal certainty. For this reason, various efforts have been made by the government, namely seeking to resolve land disputes quickly to avoid the accumulation of land disputes, which can harm the community, for example land cannot be used because the land is in dispute [14].

Basically, the choice of dispute resolution can be done in 2 (two) processes. The dispute resolution process through litigation in court, then develops a dispute resolution process through cooperation (cooperative) outside the court. The litigation process results in an adversarial agreement that has not been able to embrace common interests, tends to cause new problems, and is slow to resolve. On the other hand, through an out-of-court process resulting in agreements that are “win-win solutions”, avoiding delays in the settlement process caused by procedural and administrative matters, completing comprehensively in togetherness and maintaining good relations [15].

The use of out-of-court dispute resolution institutions was then implemented in the State of Indonesia which was made through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which has provided several peaceful dispute resolution options (PPS) that can be taken by the parties to resolve disputes. or their civil differences of opinion, whether the use of institutions of consultation, negotiation, mediation, conciliation, or expert judgment [16].

Dispute resolution options (PPS) out of court can only be taken if the parties agree on a settlement through the dispute resolution option (PPS) institution. Then the choice of dispute resolution (PPS) in dispute resolution outside the court develops in other cases such as certain criminal cases and labor disputes or in environmental disputes and land disputes, so that the choice of dispute resolution outside the court does not only apply to cases -Civil cases only. Economically, the dispute has forced the parties involved to incur costs [17]. The longer the dispute resolution process, the greater the costs that must be incurred and often the costs incurred to resolve land disputes to completion are not commensurate with the price of the object of the disputed land. But by some people or certain groups of land as self-esteem that must be held firmly, land will be defended until death [18].

Basically land disputes arise because there is no deliberation that can be taken in resolving land problems by both parties to the dispute. Defense can be an act against regulations that take place due to the occupation of land without rights, the distribution of inheritance that is not in accordance with the number of heirs, the amount of inheritance to be divided, and buying and selling that does not consider the land owner [19]. The existence of unlawful acts in the ownership and control of land that is not balanced causes people to feel disadvantaged and complain about the problem to the court so that the problem can be resolved [20].

BPN does not have the Right to Material Test. The original Grant Sultan was recorded and registered at the BPN office. As long as the parties who have the Sultan's Grant will be adjusted to those that have been recorded and registered with the BPN. If it has never been in the BPN, then the parties can apply to the BPN. BPN can only issue a certificate that the Sultan's Grant will be converted or registered to BPN. As long as Grant Sultan is present, the BPN only issues a certificate that the land rights cannot be registered if there are still objections from the parties. Regarding the settlement of land disputes, the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 has been issued regarding the settlement of land cases. According to the provisions of article 1 point 1 of the Minister of ATR/BP N Number 11 of 2016, what is called a defense case is a dispute, conflict or defense case to record settlements in accordance with the provisions of the legislation and/or land policy.

Thus, the provisions of Permen ATR/BPN Number 11 of 2016, land cases are dividedinto 3 (three) of them:

1) Land Disputes, hereinafter referred to as Disputes, are land disputes between individuals, legal entities or institutions that do not have a wide impact (Article 1 point 2 of the Minister of ATR/BPN Number 11 of 2016).
2) Land conflicts, hereinafter referred to as conflicts, are land disputes between individuals, groups, groups, organizations, legal entities or institutions that have a tendency or wrong to have a wide impact (Article 1 point 3 of the Minister of ATR/BPN Regulation Number 11 of 2016).
3) Land Cases, hereinafter referred to as Cases, are land disputes which are handled and resolved through the judiciary (Article 1 point 1 number 4 Permen ATR/BPN Number 11 of 2016).

If a case has not been submitted for examination at the judiciary, then the case is a land dispute. Settlement of land disputes according to the provisions of Article 4 of the ATR/BPN Regulation Number 11 of 2016 is carried out based on:

1. Initiatives from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ministry) or
2. Community complaints
   a. With the provisions of the above legal norms, defense cases are not seen as civil cases that occur between individuals against individuals in society or against corporations, so that these cases are categorized as private (civil) cases, so that the state in this case is the Ministry of Agrarian

Affairs and Spatial Planning/Agency. National defense must not intervene (intervention) in solving the case.

b. Based on the complaint, the official who is responsible for handling disputes, conflicts and cases at the Office of Defense (Official) carries out activities to collect the data collected can be in the form of:
   1) physical data and juridical data
   2) Judicial decisions, reports on investigations from the Indonesian National Police, the Indonesian Attorney General's Office, the Corruption Eradication Commission or other documents issued by law enforcement agencies/institutions
   3) data issued or published by the authorized official
   4) other related data and can influence and clarify the issue of Disputes and conflicts and/or
   5) witness testimony (Article 10 of Permen ATR/BPN Number 11 of 2016)

Grant Sultans Dispute Resolution Barriers

In resolving disputes between disputing parties, both citizens and authorities are not justified as independent judges. Even though there is evidence that he is the party entitled to the disputed land, the dispute resolution must be submitted to the court, if it cannot be resolved through deliberation. External factors sourced from the source and object of the dispute that hinder conflict resolution, including:

1) Overlapping regulations related to land. This raises doubts for the apparatus, both field officers and law enforcement officers who resolve conflicts/disputes in determining which legal basis or regulations should be used in resolving conflicts.
2) Conflict of the land justice system between the State Administrative Court (TUN), civil and criminal courts. Disputes over land conflicts can reach all three types of justice. In this case, the judge adjudicates the case for the settlement of judicial disputes through civil courts, but has not been able to decide the case because they are still waiting for the results of the verdict in the criminal case. This is what makes the case unfinished and tends to be long-winded.
3) Doubts of officers/officials due to trauma are reported to be criminal and will be prosecuted. In resolving civil disputes regarding land boundaries. BPN officers of course need to directly review the boundaries of the disputed land.
4) Regulatory procedures that hinder conflict resolution mechanisms and make officials/officials hesitate to make decisions.
5) Government assets that do not have land rights, but are forced to be maintained. In some cases it is known that there are state assets built on parcels of land that have no rights, that is, the land is claimed by the community. Under the pretext of the right to control the state, the land can be acquired so that it causes conflict and its resolution is prolonged.
6) Deviations from certain elements in the past that were not controlled and became a source of conflict.
7) The judge's verdict is inconsistent and used as an excuse for one or the other parties to the dispute so that the conflict becomes endlessly rambling.
8) The Court's attitude is that it accepts every lawsuit even though the evidence of the lawsuit is legally flawed. If it can be ascertained that the evidence presented in a case is legally flawed.

In addition to external factors that hinder the resolution of the dispute. In general, obstacles in deliberation can be caused by internal factors originating from the disputing parties and the object of the dispute, among others [21].

1) Unclear criteria, location, land boundaries, land boundaries as objects of dispute can also be an obstacle to the process of deliberation. Barriers classified as internal barriers are part of the customs of indigenous peoples. Obstacles in the form of unclear land boundaries do not come from outside parties, because the community determines and makes land boundaries a problem for themselves.

2) The holder of the Grant Sultan does not own the land, so he does not know the boundaries of the land.
3) Only holding a Photocopy of Grant Sultan, does not have the original Grant Sultan, so it is difficult to prove.
4) Emotion Level, the disputing parties are sometimes one of the factors that hinder the deliberation process and this is related to the emotional level or temperament. Deliberations sometimes do not run smoothly because one party on both sides uses emotion rather than logic in deliberation and does not listen to the opinions of the other party and thinks he is the most correct. This attitude makes deliberation unfavorable.
5) Level of education. The level of education is low, sometimes it is difficult to understand the rights that are the focus of the disputes being discussed and make the disputes more complicated to resolve.
6) Discipline of the parties in the dispute resolution process is one of the inhibiting factors. If one of the parties is not disciplined and ignores the procedure, then the community forum.

In general, disputesland can be submitted to the Court both within the scope of the Court (PN) for civil and criminal matters. State Administration (PTUN) specifically for disputes related to land administration. Cases concerning land disputes that have been decided by the court (litigation), both in the first instance, appeal and cassation without intending to generalize, it appears that an increased understanding of the substance of the problem is needed with regard to the underlying concept so that the decisions taken can truly provide justice and certainty. law. It is undeniable that the land problem from a juridical perspective is not a simple matter of solving a case [22].

The theory of justice according to John Rawls is a condition of morally ideal truth about something, both concerningthings and people. Justice is a primary virtue in social institutions as is truth in systems of thought [23]. Justice fulfills two principles. First, everyone has the same right to the same freedom for everyone. Second, social and economic inequality must be regulated in such a way that it can benefit everyone. The first principle requires that the theory of justice guarantees the freedom of citizens, whether it be political freedom, belief, thought or freedom to defend property rights and freedom from arbitrary arrest as defined by the rule of law, and all these freedoms, according to the first principle, must be equal, because citizens of a just society have the same basic rights [24].

The second principle relates to the distribution of income and wealth. While the distribution of wealth and income need not be the same it must be from everyone's profit.

John Rawls considers the conception of justice to see justice as the main virtue of every social institution [25]. Thus the institution will provide a fair and equal opportunity for every person there to develop themselves and enjoy their self-respect and dignity as a human being [26].

Law No. 5/1960 (UUPA) in fact has not comprehensively and accommodated matters related to land. Regarding land cases, if the court's decision has permanent legal force, as a country that upholds the rule of law, the BPN should respect and obey the decision as an institution mandated to carry out executive functions in the land sector which is termed as the earth in accordance with Article 33 paragraph (3) of the 1945 Constitution and translated in Article 2 of the LoGA with the term State Controlling Rights over land [27].

Without intervention from any party and the output of the judicial process in the form of court decisions that have permanent legal force should be respected and the state administration system in Indonesia provides legitimacy for judicial institutions to decide cases (disputes) independently carried out by all Indonesian people, including the government as the organizer of power. executive. Not only the litigating parties are obliged to implement and respect the verdict, because the judicial power contained in the constitution binds all citizens and applies universally for the realization of the rule of law that leads to a sovereign government [28].

The principle of law or legal principle which in Dutch is called recht beginsel and in English it is called the principle of law. Henry Campbell Black gives an understanding of the principle is "fundamental truth or doctrine, as of law; acomprehensive rule ar doctrtrine which furnishes abasis or orgin for others”[29].

The principle of law is a logical ratio of legal norms. Satjipto Rahardjo stated that legal principles were the basis that gave birth to legal regulations, which meant that legal regulations were eventually returned to these principles. Furthermore, Satjipto Rahardjo quoted the opinion of George Whitecross Paton, namely that this legal principle will not be exhausted by giving birth to a legal regulation, but will still exist and will give birth to further regulations. This legal principle also makes the law live, grow and develop and it also shows that the law is not just a collection of rules, because the principle contains ethical values and demands [30].

Y.Sogar Simamora stated that legal principles are needed as the basis for the formation of rules as well as the basis for solving legal problems that arise when the available legal rules are inadequate [31].

The importance of legal principles is closely related to the rule of law in terms of:

a. Establishment of statutory regulations (legal drafting).
b. Settlement of cases or cases whose resolution is through the courts.
c. In the settlement of a legal case or case, it turns out that there are no legal rules. In this situation, legal principles play a role in filling the legal vacuum by providing a legal basis for judges to make decisions.

The LoGA was promulgated on September 24, 1960. The LoGA revoked the agrarian-related regulations and decisions made by the Dutch East Indies Government. Muchsin et al stated that the revocation of regulations by the LoGA and the declaration of customary law as national agrarian law was in order to realize the unity and simplicity of the law.

Customary Law in the LoGA, namely:

a) formal

"…. Part of positive Indonesian law that applies as living law in an unwritten form among Native Indonesians which contains national characteristics…"

b) Material….

The nature of society that is based on balance and is filled with a religious atmosphere."

From a constitutional point of view, there should be no need for doubt and reluctance for authorized officials at BPN to implement the contents of court decisions that have permanent legal force, because legally the implementation of court decisions in this case registration of land rights based on court decisions is part of the implementation of executive functions. which is based on and collaborated with the product of judicial power (court decisions) so that these actions can be accounted for and are a manifestation of the implementation of the rule of law and can be categorized as constitutional actions.

Judge's Consideration

The Plaintiff's lawsuit, it turns out that the Plaintiff did not withdraw the Assistant Wedana of Labuhan Deli Sub-district as the party that issued the Certificate of Owning Land as a Substitute for Grant and the Head of the Besar Sub-District and the Medan Labuhan Sub-district as the authorized agency to issue a land certificate, so to assess it as legal and valid. Legal Certificate of Ownership of Land in Lieu of Grant issued by the Assistant Wedana of Labuhan Deli District, each dated July 22 1960, and Certificate of No Cross Dispute, issued by the Head of Kelurahan Besar who is known to the Medan Labuhan Sub-district Head, the Panel of Judges is of the opinion that it is very urgent [32].

The Plaintiff withdrew the Assistant Wedana of Labuhan Deli Sub-district and the Head of the Besar Sub-District who was known to the Medan Labuhan Sub-district Head, as the Defendant,Likewise, the Government of the Republic of Indonesia as the authority to facilitate the resolution of problems related to the establishment and development of industrial estates, which can be in the form of land, infrastructure, raw water, energy, manpower and licensing as well as the determination of an industrial area as a national vital object of the industrial sector, so that the District Court can assess whether the documents are valid and have legal force (vide Supreme Court decision R Number 1816 K/Pdt/1989);so that the District Court can assess whether the documents are valid and have legal force (vide the decision of the Supreme Court R Number 1816 K/Pdt/1989);so that the District Court can assess whether the documents are valid and have legal force (vide the decision of the Supreme Court R Number 1816 K/Pdt/1989);

According to the Panel of Judges, in the opinion that the person who was withdrawn as the Defendant was incomplete because there was still a third party who feitelijke (real) controlled the land of the object of the case, the lawsuit contained an error in persona in the form of the Plaintiff's lawsuit lacking parties (plurium litis consostium) so that the exception of the Defendant and Co-opt Defendant can be accepted. In the judge's consideration, the lawsuit contains an error in persona in the form of the Plaintiff's lawsuit lacking parties (plurium litis consostium), so that the trial examination has not entered the subject matter of the case, the Plaintiff's claim must be declared unacceptable (niet ontvankelijke verklaard) [33].

Yahya Harahap's opinion in his book Civil Procedure Law publisher Sinar Graphic first printing, April 2005 page. 439; "The person acting as the Plaintiff is incomplete, there are still people who must be made the Plaintiff or Defendant, then the dispute in question can be completely and thoroughly resolved. For example, Supreme Court Decision No. 621 K/Sip/1975 dated May 25, 1977. It turned out that some of the object of the case property was not controlled by the Defendant, but had already become the property of a third party. Thus, because the third party is not being sued, the lawsuit is declared to contain a defect in the plarium litis consortium" (law of less parties). This is based on the Supreme Court Jurisprudence No. 365 K/Sip/1984 states: "it is important to include all parties who have legal relations in the subject matter of the case, the problem in other words is complete [34].

Analysis of Court Decisions and Customary Law

Analysis of the Decision of the Mabar Industrial Estate Court Decision Number 441/Pdt.G/2017/PN Mdn. Based on history, usually a Grant or Grant Sultan (Letter Determining Garden Rights) is issued by the Deli Sultanate. Murad El Faud as assistant wedana of the Labuhan deli sub-district is not legally authorized to issue a land certificate as a Substitute for Grant, because Murad El Faud is not the Sultan of Deli or other agencies under the Deli sultanate. Land certificates as a substitute for grants must be rejected on legal grounds if the land certificates as a substitute for grants are legalized and/or justified and justified, more land certificates will appear as a substitute for grants [35].

Grant is a permit granted by the Sultanate of Deli to control/work the land/garden forever and if the land is not worked and left for 6 (six) months or one year then the permit is not valid. In the aquo case, the Plaintiff argues that he has land rights only based on a land certificate as a substitute for the 1960 grant and since 1960 the Plaintiff has never worked on the land/garden and has even left it for 57 (fifty-seven) years, starting from 1960 to 2017.

The Sultan's grant can only be transferred by the Sultan directly, if it is not worked on and neglected for 3 years then the land returns to the Sultan. The Sultan's Grant can only be transferred by the Deli Sultanate. Based on the Certificate of Owning Land as a Substitute for Grant, which was issued by the Assistant Wedana of Labuhan Deli District, List Number No. 58/KLD/1960, List Number No. 59/KLD/1960 and List Number No. 60/KLD/1960 which was confirmed by a letter. Information from the Head of Kelurahan Besar known to the Head of Medan Labuhan No.05/SK/KB/V/1988, No.06/SK/KB/V/1988 No.07/SK/KB/V/1988 respectively dated May 13, 1988 , is invalid and has no legal force;

Judging from the Grant Sultan Criteria Based on the description of Tengku Hamdy Osman Delikhan Al-Haj (Raja Muda) the Grant veins issued by the Deli Sultanate, namely: Sultan Grant issued by the Deli Sultanate aimed at Grant Sultan is a certificate of land rights that can be owned by indigenous people for the permission, grant, or acknowledgment of the Sultan for land rights granted to his subjects, in the Swapraja area. The purpose and objective of the Grant Sultan being published is as proof of ownership, namely proof of land rights. So, during the Sultanate period, Grant was needed, especially in terms of the transfer of land rights [36].

At first the evidence of land rights was not too much of a problem, because the available land was still very large, while the number of indigenous people was still small, so at that time there was no problem with the evidence of land rights. Along with the progress and development of foreign plantation companies in the Swapraja area, the need for both plantations and settlements is increasing, to determine the form of proof of land rights, especially if there is a transfer of land rights.

The Sultan's Grant is issued with the permission of the Sultan and is transferred by the Sultan if it is not cultivated/done for gardening because it is considered abandoning the land.

In Article 499 of the Civil Code which reads as follows: according to the understanding of the law is every item and every right that can be controlled by property rights. ulayat rights area of a customary alliance. This right is included in ulayat rights and is a very basic personal right over the land environment of customary law communities, of which a person is a member.

When viewed from the criteria for determining the existence of ulayat rights, the LoGA does not provide specific criteria regarding the existence of ulayat rights, but according to Mahadi's view, it is stated that customary law communities have ulayat rights, so the absence of customary law means the absence of ulayat rights [37].

The policies in PMNA/KPBNs Number 5 of 1999 include, among other things, the criteria and determinants of the existence of customary rights and similar rights of customary law communities (Article 2 and Article 5. Signs that need to be investigated to determine the persistence of customary rights include 3 (three) elements, namely:

1) elements of customary law community
2) the element of territory, namely there is ulayat land which is the environment of their daily life (ulayat object) and the element of the relationship between the community and the region is that there is a customary law order regarding the management, control and use of ulayat land which is still valid and obeyed by the community members.

CONCLUSION

The judge's consideration, in the court's decision, is that the judge does not understand the Grant Sultan Criteria to make the Decision, it is suggested that the judge can be guided by the Grant Sultan Criteria which can be the guideline for the Court's Decision. The establishment of a Land Court is possible, to measure the effectiveness of the performance of the judiciary, especially regarding customary land.

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