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The Impact of Overlapping Land Claims In Penkase Subdistrict (An Analysis Based on Court Rulings)

Benediktus Peter Lay^{1*}, Yulia Aprilis Uge Lay², Gabriel Faustin Vicky Seran³, Maria Imakulata Go'o Laki⁴.

¹Universitas Katolik Widya Mandira Kupang, Kupang, Indonesia, benediktuslay12@gmail.com

²Universitas Katolik Widya Mandira Kupang, Kupang, Indonesia, rilislay12@gmail.com

³Universitas Katolik Widya Mandira Kupang, Kupang, Indonesia, vickyseran18@gmail.com

⁴Universitas Katolik Widya Mandira Kupang, Kupang, Indonesia, icagoolaki@gmail.com

*Corresponding Author: benediktuslay12@gmail.com

Abstract: Overlapping land claims cause significant legal uncertainty in Indonesia, exemplified by a 9 hectare dispute in Tuanomolo, Kupang. This study analyzes the legal and social impacts of these claims and evaluates the role of land technology in resolving or complicating disputes. Utilizing a qualitative normative-empirical method with statute and case approaches, it examines Kupang District and High Court judgments through a prescriptive analytical framework. The findings show that overlapping claims trigger prolonged uncertainty and material losses from subsequent unlawful acts. Juridical evaluation under Supreme Court jurisprudence reveals that the lower courts (Judex Facti) committed manifest errors by misapplying the missing parties (plurium litis consortium) exception and ignoring physical evidence. Furthermore, land technology (GPS and satellite mapping) plays a dual role: it accurately exposes hidden overlaps but risks displacing traditional rights if manual to digital migration is uncoordinated. In conclusion, digital technology is not a standalone solution; its success depends on data integrity, consistent law enforcement, and institutional synchronization between land agencies and the judiciary.

Keyword: Overlapping Land Claims, Court Decisions, Legal Uncertainty, Land Technology Transformation.

INTRODUCTION

Land is a fundamental asset with economic, social, and strategic value for the Indonesian people. However, as demand for land increases, land conflicts, particularly overlapping rights claims, are a growing and unavoidable phenomenon. This overlapping problem is often rooted in Indonesia's land registration system, which adheres to a negative publication system with positive elements. The state does not fully guarantee the accuracy of the data presented, so that issued certificates can still be challenged later if another party can prove stronger rights (Utomo, 2023).

In Penkase Oeleta Village, Alak District, Kupang City, this problem became apparent “through a land dispute of approximately 9 hectares in a location known as “Tuanomolo”. This

case involved claims from heirs, such as the Baitanu family, against other parties who were suspected of committing unlawful acts by controlling or selling the land object without legal rights (Baitanu, 2026). This control of land without legal rights is contrary to the principle of granting land rights by the State as regulated in Article 4 paragraph (1) in conjunction with Article 20 paragraph (1) of Law No. 5 of 1960 (Supreme Court Decision No. 288 PK/PDT/1986, 1986). The existence of this dual claim creates prolonged legal uncertainty for the actual rights holders, where legal certainty should be realized through land registration throughout Indonesia as mandated by Article 19 paragraph (1) of Law No. 5 of 1960 (Article 19 Paragraph (1) Law Number 5 of 1960 concerning Basic Agrarian Regulations, 1960). In the legal context in Indonesia, the Decision of the Supreme Court of the Republic of Indonesia No. 288 PK/PDT/1986 is an important reference in reviewing the strength of evidence and legal certainty over land that has a long history of disputes, especially related to the validity of old ownership evidence against new claims. This is in line with one of the main objectives of the formation of the UUPA, namely to provide legal certainty regarding land rights for all Indonesian people (General Explanation Part I Number 2 of Law Number 5 of 1960 concerning Basic Agrarian Regulations., 1960).

One of the main causes of overlapping claims in the past was the manual land administration and registration system. (Simarmata, 2023) In the manual era, land measurements were carried out using traditional tools with low accuracy standards and base maps that were not yet nationally integrated, resulting in frequent errors in land plot depiction (Razak, Patittingi, 2020). This resulted in many certified land plots not being recorded on a single, synchronized registration map, potentially leading to the land office issuing new certificates for land plots that already had title.

The shift from manual to digital systems based on satellite and Global Positioning System (GPS) technology aims to address this issue through programs such as the Complete Systematic Land Registration (PTSL) and digital mapping (plotting) (Febriyanti, Nasab Sabrina, 2025). However, this transition also has significant impacts, as the digital plotting process often uncovers overlaps that have been "hidden" in manual archives for decades. The lack of synchronization between physical data in the field and legal data in manual land books often results in digital registration files being rejected or even triggering new boundary disputes. While digital systems increase transparency and accuracy, failure to synchronize legacy data into electronic systems can leave long-standing community rights (such as customary or inherited land) vulnerable to being "displaced" by formalistic claims that were previously recorded digitally ("Problems of Converting Old Physical Certificates to Electronic Certificates in Land Dispute Resolution," 2026).

Therefore, this study will examine in more depth the impact of overlapping land rights claims in Penkase Village by referring to the legal analysis of the Kupang High Court Decision No: 123 / PDT / 2022 / PT.KPG; in conjunction with the Kupang District Court Decision Class 1A No. 256 / PDT.G / 2021 / PN.KPG; Decision of the Supreme Court of the Republic of Indonesia No. 85 / K / Sip / 1956 concerning the implementation of decisions against people who are not parties but also have rights; Decision of the Supreme Court of the Republic of Indonesia 288 PK / PDT / 1986 concerning legal provisions including the scope of errors or obvious mistakes; Decision of the Supreme Court of the Republic of Indonesia No. 305 / K / Sip / 1971 considers that in principle, only the plaintiff has the authority to determine who he will sue, as long as this will not affect the implementation of the decision, and whether the transformation of land technology plays a role in resolving or complicating the dispute.

METHOD

This study employs a qualitative method, specifically a normative empirical research design, utilizing both the statutory approach and the case approach. The statute approach is

used to examine the land law norms contained in Law No. 5 of 1960 on the Basic Agrarian Principles (UUPA) and its implementing regulations, while the case approach is used to analyze the Decision of the Kupang High Court No. 123/PDT/2022/PT. KPG; in conjunction with the Decision of the Kupang Class 1A District Court No. 256/PDT.G/2021/PN.KPG along with the jurisprudence of the Supreme Court of the Republic of Indonesia No. 85/K/Sip/1965; Principles based on the Supreme Court's opinion in Decision No. 305/K/Sip/1971; Supreme Court of the Republic of Indonesia Decision No. 288 PK/PDT/1986.

The data used is secondary data, which consists of primary and secondary legal sources. Primary legal sources include legislation and binding court decisions. Secondary legal sources include books relevant to the issue of overlapping land rights.

The method of collecting legal materials involved a literature review and document analysis, specifically by tracing, collecting, and examining all written legal materials related to the issues of overlapping land rights and the transformation of land administration technology. The document review focused on court decision files that were the subject of the research, including summons documents and land records related to the subject of the dispute in Penkase Oeleta Village.

The analysis of legal materials was conducted using a prescriptive analytical approach in accordance with the following stages: inventory, identification, systematization, interpretation, and evaluation of the legal materials. The interpretation of legal norms employed grammatical, systematic, and teleological methods to determine the most appropriate meaning of the applicable legal provisions. In addition, comparative legal analysis is also used to compare the application of the principle of legal certainty in the various court decisions examined, so that patterns of resolving overlapping land rights disputes can be identified that are consistent with the objectives of national land law. (Ramadhani, 2024)

The legal sources used in this study are classified based on their hierarchy and relevance to the issue of overlapping land rights. The primary legal materials are primarily derived from Law No. 5 of 1960 (UUPA), Government Regulation No. 18 of 2021 on Management Rights, Land Rights, and Land Registration, as well as Ministerial Regulation of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) No. 16 of 2021 regarding the Implementation Provisions for the Conduct of Comprehensive Systematic Land Registration (PTSL). In addition to regulations, these primary sources also include legal observations of court decision files at the Kupang District Court and the Kupang High Court, which are the subjects of the case studies.

Secondary legal sources were obtained from legal experts' opinions published in academic journals focusing on agrarian law, previous research on land disputes in the East Nusa Tenggara region, and legal literature discussing the theory of legal certainty and the protection of land rights.

RESULTS AND DISCUSSION

The Impact of Overlapping Land Claims in Penkase Oeleta Subdistrict Based on a Legal Analysis of Court Rulings

The land dispute in Penkase Oeleta Village, Alak Subdistrict, Kupang City involving approximately 9 hectares of land in the Tuanomolo area is a clear example of overlapping land claims that have far-reaching legal and social implications. The Decision of the Kupang Class IA District Court No. 265/PDT.G/2021/PN.KPG dated June 8, 2022, and the Decision of the Kupang High Court No. 123/PDT/2022/PT.KPG dated October 5, 2022, serve as the starting point for a legal analysis of the various impacts caused.

In addition to the main issue, this case is also marked by a formal notice dated January 8, 2026, filed by Stefen Nalle, acting as the attorney in fact for Richard Saputra Baitanu (heir of the late Ferdinan Baitanu), against three parties: Yusak Langga, S.H., Yavet Alfonsus Mau,

S.H., and Anderias Bessie, as well as a petition for cassation filed by Drs. H. Mohammad Djafar on behalf of the Nurussa'adah Grand Mosque in Kupang to the Supreme Court of the Republic of Indonesia, which is closely related to the same land in question. The existence of two major, overlapping claims regarding the same property highlights just how complex and vulnerable the land administration system is in ensuring legal certainty.

1. The Impact of Legal Uncertainty Regarding Ownership

The first and most fundamental consequence of these overlapping claims is prolonged legal uncertainty. Since Certificate of Ownership No. 12/Alak Village (Site Plan No. 80/1985 dated April 9, 1985) was issued in the name of Drs. Muhammad Djafar acting for and on behalf of the Nurussa'adah Grand Mosque in Kupang covering an area of 57,672 m², the land has continued to be the subject of a dispute among various parties. On the other hand, the Baitanu family, through its heirs, claims rights to land in the Tuanomolo area covering approximately 9 hectares, which geographically overlaps with the Grand Mosque's claim.

Article 19(1) of Law No. 5 of 1960 on the Basic Agrarian Principles Act (UUPA) mandates that the government conduct land registration throughout the territory of the Republic of Indonesia in order to ensure legal certainty. However, in practice in the Penkase Oeleta Subdistrict, this noble objective has not been realized, as the existence of freehold certificates which are supposed to provide certainty has instead been repeatedly challenged and disputed over the course of decades. This demonstrates that the negative publication system with positive elements, as adopted by Indonesia, still leaves room for overlapping claims.

“The government does not fully guarantee the accuracy of the information contained in the certificate; therefore, the certificate may still be challenged at a later date if another party can prove a stronger claim.”

This uncertainty creates a situation in which the rightful owner cannot fully exercise their rights, while other parties continue to make claims, maintain physical control, and even engage in sales and purchases of the disputed land.

2. Consequences of Unlawful Acts and Material Damages

Unresolved overlapping claims have led to various unlawful acts (*onrechtmatige daad*) that have caused harm to the legitimate rights holder. Based on the trial evidence as set forth in the Brief on Appeal for Case No. 123/PDT/2022/PT.KPG, it has been proven that Yoel Saeketu (Defendant I) sold the disputed land to the other defendants even though the land had clearly been in dispute since 2005, when Yoel Saeketu was reported to the Kupang City Police on suspicion of encroaching on waqf land based on Report/Complaint No. Pol LP/K/1616/IX/2005/Polresta Kupang dated September 26, 2005.

For these acts, Yoel Saeketu was ultimately found guilty by the Criminal Judgment of the Kupang Class IA District Court No. 272/Pid.B/2019/PN.KPG dated July 6, 2020, which was upheld by the Judgment of the Kupang High Court No. 81/Pid.B/2020/PT. KPG dated September 10, 2020. This indicates that overlapping claims not only have implications in the realm of civil law but also give rise to criminal liability.

In the context of the legal dispute arising from the formal notice filed by Stefen Nalle as the legal representative of Richard Saputra Baitanu (heir of the late Ferdinan Baitanu), there are also allegations of unlawful acts committed by Yusak Langga, S.H., who sold the Tuanomolo land parcel to Anderias Bessie. Furthermore, Anderias Bessie has even constructed a perimeter foundation and a permanent structure (kiosk) on the site, despite the Attorney in Fact having issued two verbal warnings. This situation violates Articles 1792

through 1813 of the Civil Code regarding the grant of power of attorney and the limits of actions that may be taken by the attorney-in-fact.

The material losses suffered by the legitimate rights holder are very real, ranging from substantial legal costs, losses due to the inability to utilize the land, to potential losses resulting from physical construction carried out by unauthorized parties on the disputed land. In the petition for cassation, the Appellant even demanded a daily penalty of Rp 1,000,000 from the Respondents from the date the case was decided until the decision is enforced, as a reflection of the magnitude of the losses suffered.

3. Legal Analysis Based on the Principles of Supreme Court Decision No. 305/K/Sip/1971

One of the central legal issues in this case is the matter of insufficient parties (*plurium litis consortium*), which served as the basis for the trial court's decision and was upheld by the appellate court in declaring the petitioner's appeal inadmissible (*niet ontvankelijke verklaard*). On page 47 of its decision, the trial court stated that there were more than 40 households in control of the disputed property, and thus the lawsuit was deemed to involve too many parties.

Supreme Court Decision No. 305/K/Sip/1971 dated June 16, 1971, has affirmed a fundamental principle of civil procedure law, namely that:

"In principle, only the Plaintiff has the authority to determine whom to sue, provided that this does not affect the enforcement of the judgment."

In his brief on appeal, the appellant correctly cited this principle to challenge the findings of the trial court. A legal analysis of this principle in the context of the present case yields several important findings:

First, the *Judex Factie's* finding that there are more than 40 heads of households in control of the disputed land is a finding not supported by sufficient evidence. The figure of 40 was derived purely by arithmetic, namely by adding the 24 defendants, the 14 individuals mentioned in the defendants' exceptions, and the 2 witnesses who were not named as defendants. No documentary evidence or witness testimony during the trial explicitly mentioned the names of the more than 40 heads of households along with the locations of the land they controlled. This contradicts the principle that every fact used as the basis for a legal ruling must be proven in court.

Second, the consideration regarding witnesses Hendrik Malelak and Yohanis Oktavianus who were not named as defendants, leading to the lawsuit being deemed to lack sufficient parties creates an internal contradiction within the *Judex Factie's* own decision. On the one hand, the *Judex Factie* states that these witnesses objected to being included in the lawsuit and that they acquired the land through purchase (page 47, first paragraph), but on the other hand (page 48, second paragraph), it states that their exclusion resulted in the lawsuit lacking a party. This contradiction is an indication of a decision that is insufficiently reasoned (*onvoldoende gemotiveerd*).

Third, in accordance with the principles set forth in Supreme Court Decision No. 305/K/Sip/1971, the determination of the parties to be sued is the prerogative of the Plaintiff, with the sole limitation that this must not affect the enforcement of the judgment. In this case, the Appellant has formulated the fourth petition, which reads: "To order the Defendants or anyone who has obtained rights or authority from them to immediately demolish all structures and vacate the disputed land," so that the enforcement of the judgment will not be hindered by the absence of other parties who may have acquired the land from the Defendants.

Legal Analysis Based on Indonesian Supreme Court Decision No. 85/K/Sip/1956

Another related legal issue concerns the applicability of a judgment to parties who were not named as defendants. Indonesian Supreme Court Decision No. 85/K/Sip/1956 states that:

“A judgment may be enforced against a person who is not a party to the proceedings only if that person can be regarded as having acquired a right (recht verkrijgende).”

In the context of the case in Penkase Oeleta Village, this principle has very significant implications. Parties who acquired the disputed land from Yoel Saeketu or Ferdinand Baitanu, even though they were not named as defendants, may still be bound by the enforcement of the judgment if it is proven that they acquired the land from an unauthorized person.

This is underscored by the view of M. Yahya Harahap, S.H., in his book *The Scope of Civil Enforcement Issues*, which distinguishes between two conditions:

First, if a person who is not a party to the lawsuit acquired the disputed property from the Defendant based on a clear and unambiguous legal title (for example, through a valid sale and purchase), then the judgment and its enforcement cannot be imposed on that person.

Second, if a person who is not a party to the lawsuit acquires the disputed property from an unauthorized person without a clear and certain legal basis, then in essence the right to that property has “not yet been transferred,” so that the judgment and its enforcement may be imposed on that person even though they were not named as a defendant.

In the present case, witness Hendrik Malelak claimed to have purchased the land from Yoel Saeketu in 2015, even though the land had been the subject of a dispute since 2005 and the proof of purchase consisted only of a receipt that had not been formalized into a Deed of Transfer of Rights and certified. Thus, based on Supreme Court Decision No. 85/K/Sip/1956, witness Hendrik Malelak may be bound by the enforcement of the decision because he purchased the land from a person who was not entitled to sell the disputed land.

Similarly, witness Yohanis Oktavianus purchased land from Ferdinand Baitanu (Defendant III) in 2021, even though Ferdinand Baitanu had been declared not to be the owner of the disputed land based on the Administrative High Court Decision No. 209/B/2020/PT.TUN. SBY dated November 24, 2020, which was upheld by the Supreme Court of the Republic of Indonesia Cassation Decision No. 281 K/TUN/2021 dated August 18, 2021.

The effect of applying this principle is that the appellant’s lawsuit is not, in fact, deficient in parties, since the parties who acquired the land from the respondents through unlawful means may still be subject to enforcement even though they were not named as defendants, in accordance with the doctrine *recht verkrijgende*.

4. Legal Analysis Based on Supreme Court Decision No. 288 PK/PDT/1986

Supreme Court Decision No. 288 PK/PDT/1986 dated December 23, 1987, serves as an important basis for assessing the validity of the trial court’s reasoning. This decision affirms that:

“Justifying something that does not meet legal requirements falls within the scope of clear errors or mistakes.”

In the context of the present case, there are at least three clear errors committed by the trial court in its decision:

First Error: The finding stating that “there are more than 40 households in control of the disputed property,” without being supported by sufficient evidence presented at trial, constitutes a finding that exceeds the scope of the court’s authority (*ultra petita* in the findings) and is contrary to the principles of evidence in civil procedure.

Second Error: The ruling regarding the Indonesian Bethel Church’s control of the land concluded that there was no such control, even though Exhibit P.17 a Map of the Location

Identification Results clearly shows that the Bethel Church in Kupang controls 3,149 m² of the disputed land, and the testimony of witness Haji Muhammad MS confirms that, at the time of the survey by the National Land Agency (BPN), church land was included within the disputed land. Ignoring the evidence already presented in court constitutes a clear error.

Third Error: A contradiction (*contradictio in terminis*) between pages 47 and 48 of the *Judex Factie's* decision, which on the one hand mentions more than 40 households but on the other hand states that the names of those individuals are unknown, even though an on-site inspection (*descente*) had been conducted, making it logically impossible for the existing land tenure to remain unidentified.

Based on Supreme Court Decision No. 288 PK/PDT/1986, these errors should constitute sufficient grounds for the Supreme Court to overturn the Decision of the Kupang High Court No. 123/PDT/2022/PT.KPG, which affirmed the first instance court's decision.

5. Social Impacts and Community Vulnerability

Beyond the legal dimension, overlapping land claims in the Penkase Oeleta neighborhood have also caused serious social repercussions. The presence of more than 40 households claiming ownership of portions of the disputed land has created a high level of social vulnerability. The community, which has lived and built a life on this land for years, faces the threat of losing their homes and livelihoods if the court grants the claim of one of the parties.

This situation is exacerbated by the fact that a number of sales and purchase transactions involving the disputed land continue to take place even though the disputed status is public knowledge, as evidenced by the mediation held at the Kupang City Land Office on November 24, 2016, one of the outcomes of which was a ban on expansion and new physical activities on the disputed land. However, this prohibition was not effectively enforced, as evidenced by the construction of a foundation and a permanent house by Anderias Bessie on the site that had been subject to a legal notice by the heirs of Baitanu.

The ineffectiveness of informal dispute resolution mechanisms (mediation, verbal warnings) prolongs the period of uncertainty and forces the parties to continue fighting through litigation, which requires significant costs, time, and effort, thereby resulting in unequal access to justice, particularly for parties with limited resources. (Ramadhani, 2024)

The Role of Land Technology Transformation in Dispute Resolution in the Penkase Oeleta Subdistrict

Advances in land technology in Indonesia particularly the shift from manual systems to digital systems based on satellites and GPS have significant implications for the resolution of land disputes. In the context of the dispute in the Penkase Oeleta neighborhood, this technological transformation plays a dual role: on the one hand, it has the potential to serve as a solution; on the other hand, it can actually complicate existing disputes.

1) The Role of Digital Technology in Identifying Overlaps

In the era of manual land administration, land surveying using traditional tools with low accuracy and base maps that were not yet integrated on a national level resulted in many already certified parcels of land not being recorded in a single, synchronized registration map. As a result, land offices risked issuing new certificates for parcels of land that were already subject to existing rights.

Certificate of Ownership No. 12/Alak Village, issued based on Site Plan No. 80/1985 dated April 9, 1985, is a product of that manual system. According to court documents, this Certificate has been the subject of a protracted dispute precisely because of claims by other parties who argue that the manually produced site plan does not accurately reflect the physical boundaries of the land on the ground.

The transition to a digital system through the Comprehensive Systematic Land Registration (PTSL) program and digital mapping (plotting) has yielded significant benefits. GPS-based mapping and satellite imagery can generate accurate coordinates that can be independently verified, thereby reducing the scope for claims based on imprecise measurements. Once all land parcels in Penkase Oeleta Village have been digitally mapped in the Integrated Land Information System, overlaps between Freehold Certificate No. 12/Alak Village and other claims including the claim over Tuanomolo can be identified and substantiated with greater accuracy.

Exhibit P.17 in the appeal brief a map of the disputed location between Drs. Muhammad Djafar and the Saeketu family dated January 19, 2017 is a concrete example of how modern mapping technology is used to produce more reliable evidence in dispute resolution. The map clearly shows that the Bethel Kupang Church controls a 3,149 m² portion of the disputed land, a fact that is difficult to prove using only manual textual documents.

2) Technology as a Factor Complicating Disputes

On the other hand, technological transformation also carries the risk of complicating disputes, especially if the transition from manual to digital data is not carried out carefully and comprehensively. There are several ways in which this can happen:

First, the digital mapping process often reveals overlaps that have been “hidden” for decades in manual archives. In the case of Penkase Oeleta, if the PTSL process is carried out and it is found that the land claimed by the Baitanu family as Tuanomolo (approximately 9 ha) digitally overlaps with Certificate of Ownership No. 12/Desa Alak belonging to the Nurussa’adah Grand Mosque in Kupang, this will give rise to new disputes or exacerbate existing ones without immediately providing a resolution.

Second, the discrepancy between physical data on the ground and legal data in the manual land registry often results in digital registration files being rejected or even triggering new boundary disputes. Long standing rights holders whose customary or inherited lands have not yet been digitally registered risk being “displaced” by formalistic claims that were digitally recorded first. In the context of the Baitanu heirs who are claiming on the basis of inheritance rights (with a Power of Attorney from Richard Saputra Baitanu to Stefen Nalle), the absence of a digital certificate for the Tuanomolo land places them in a weaker legal position compared to the party that already holds a registered certificate. *Buku Ajar Hukum Pertanahan*

Third, there is a risk that new technology could be exploited by unauthorized parties to “preempt” the digital registration of disputed land. In this case, Yoel Saeketu’s attempt around November 2016 to report the disputed land to the Kupang City Land Office in order to revoke Certificate of Ownership No. 12/Penkase Oeleta illustrates how land administration mechanisms can be strategically exploited by unauthorized parties.

3) Technology as a Tool, Not the Sole Solution

Based on the above analysis, it can be concluded that technological transformation in land management plays a dual role in dispute resolution in the Penkase Oeleta subdistrict: it has the potential to be a highly effective tool for identifying and proving land overlaps, but at the same time it can complicate disputes if not implemented carefully and accompanied by adequate strengthening of the legal system.

Digital technology cannot function independently as a dispute resolver. Its effectiveness depends heavily on three key supporting factors: Data Integrity the process of migrating data from manual to digital systems must be accurate and auditable, taking into account the interests of long-standing rights holders who may lack formal documentation

but possess materially valid rights. Then there is Consistent Law Enforcement: Sophisticated mapping technology will be meaningless if law enforcement against violations of disputed land status remains weak. The fact that Anderias Bessie continued physical construction on land subject to a cease and desist order demonstrates that the prevention of violations still relies heavily on the willingness of law enforcement officials. (Ramadhani, 2024, p. 4)

4) Jurisdictional Harmonization

Land disputes that involve civil, criminal, and administrative law aspects simultaneously (as is the case here) require effective coordination among judicial institutions. Land technology should be integrated with the judicial information system so that the legal status of a parcel of land can be accessed in real time by all stakeholders.

Taking these three factors into account, the land technology transformation launched through the PTSL program and digital mapping in Kupang City should contribute positively to the resolution of disputes in Penkase Oeleta Village, particularly if accompanied by an update of legal records that reflect the entire history of past disputes, including relevant court rulings.

CONCLUSION

First, the overlapping claims to approximately 9 hectares of land in the Tuanomolo area have resulted in complex and long-lasting legal and social consequences. Legally, this dispute demonstrates that Indonesia's negative publication system still leaves loopholes for ownership uncertainty, where certificates which should serve as strong evidence of rights can be continuously challenged. This contradicts the mandate of Article 19(1) of the Land Law, which requires land registration as an instrument to ensure legal certainty. Furthermore, prolonged uncertainty gives rise to various unlawful acts, ranging from unauthorized occupation, the sale and purchase of disputed land, to physical construction on land with disputed status, all of which cause material and formal harm to the legitimate rights holders.

From a jurisprudential perspective, there are three key principles that should serve as a reference in evaluating the decision of the trial court. First, referring to the principle in Supreme Court Decision No. 305/K/Sip/1971, the Plaintiff has the right to determine the defendant, and the lawsuit cannot be declared inadmissible (*niet ontvankelijk*) without the support of clear and sufficient trial evidence. Second, based on Supreme Court Decision No. 85/K/Sip/1956, parties who acquired land from an unauthorized person (*recht verkrijgende*) remain bound by the enforcement of the decision even if they were not named as defendants, so their absence as parties does not hinder the effectiveness of enforcement. Third, based on Supreme Court Decision No. 288 PK/PDT/1986, the findings of the trial court in this case contain clear errors or mistakes, including a statement regarding more than 40 households without sufficient factual basis from the trial proceedings, the disregard of evidence P.17 regarding the control of the Bethel Indonesian Church, and the presence of internal contradictions in the decision, all of which constitute sufficient grounds to overturn the Decision of the Kupang High Court No. 123/PDT/2022/PT.KPG.

Second, the transformation of land administration technology from a manual system to a digital system based on GPS and satellites plays a dual role in resolving disputes in the Penkase Oeleta subdistrict. On the one hand, digital technology through the PTSL program and digital mapping has the potential to be an effective tool for accurately identifying and proving overlaps, as exemplified by the use of the Location Identification Map (Exhibit P.17) during the trial. On the other hand, this technological transformation can also complicate disputes if the data migration process from manual to digital systems is not carried out carefully, as digital mapping has the potential to reveal overlaps that have been hidden for decades without

necessarily providing a resolution. Furthermore, long-standing rights holders without formal documentation risk being “displaced” by claims that were digitally recorded first, and technological mechanisms can be strategically exploited by unauthorized parties to preempt registration. Thus, land technology is a highly valuable tool, but not a sole solution. Its effectiveness is largely determined by the integrity of the data migration process, the consistency of law enforcement, and synchronization between land agencies and judicial institutions.

REFERENCE

- Baitanu, R. S. (2026, Januari 8). *Dokumen Somasi Richard Saputra Baitanu kepada Lura Penkase Oeleta, Perihal: Penegasan Hak Atas Tanah Tuanomolo*. Kupang.
- Febriyanti, N. S., dkk. (2025). Transformasi digital pendaftaran tanah sebagai langkah strategis mewujudkan kepastian hukum hak atas tanah. *Wathan: Jurnal Ilmu Hukum*, 7.
- Indonesia. (1960). *Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok Pokok Agraria*. Lembaran Negara RI Tahun 1960 No. 104, Tambahan Lembaran Negara RI No. 2043.
- Mahkamah Agung RI. (1986). *Putusan Mahkamah Agung RI No. 288 PK/PDT/1986*. Problematika konversi sertifikat fisik lama ke sertifikat elektronik dalam penyelesaian sengketa pertanahan. (2026, Maret). *Jurnal Hukum Sasana*.
- Razak, Patittingi, & Maskun. (2020). Pemetaan sertifikat secara digital (plotting) dalam memberikan kepastian hukum terhadap hak atas tanah. *Petitum*, 8(2), 145–148.
- Ramadhani, R. (2024). *Buku Ajar Hukum Pertanahan* (M. K. Dr.M. Syurkan Yamin Yubis, S.H. (ed.)). UMSU PRESS.
- Simarmata, R. (2023). Tumpang tindih penguasaan tanah di wilayah Ibu Kota Negara "Nusantara". *Varia Justicia*, 9(1), 12–15.
- Utomo, S. (2023). Problematika tumpang tindih status kepemilikan tanah. *Jurnal Hukum Bisnis Bonum Commune*, 6, 152.