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Exploration of Local Wisdom in Land Dispute Resolution in South Central Timor District

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Abstract: The increasing population density often leads to differences in views that can eventually trigger disputes, including disputes related to land. Based on the increasing population level, of course the need for land as a place to live and make a business is getting narrower because the land has been controlled by other communities, while other communities also need land to carry out the same activities, this is where the dispute occurs. The method used in this research is empirical juridical research. The results show that the characteristics of dispute cases that occur in Oel'ekam Village include inherited land disputes, customary land disputes and land boundary disputes. The form of local wisdom in the Oel'ekam Village community is *oko mama* and the advantages of this alternative resolution are that the settlement is quickly realized, low cost, confidential and unemotional while there are also weaknesses, namely the execution mechanism which is difficult because the way to execute the decision, depends on the good faith of the parties to resolve the dispute to completion and the mediator will not bring good results especially if insufficient information and authority is given to him.

Keyword: Local Wisdom, Land Disputes, Alternative Dispute Resolution.

INTRODUCTION

Indonesia is known as an agrarian country, given that the majority of its population relies on agriculture, and consists of various islands (Rato, 2013), (Lay, Benediktus Peter; Rade, Stefanus Don; Geme, 2023). Not only that, the country is also known for its diversity in dealing with domestic and international issues. The ever-increasing population density often leads to differing views that can eventually lead to disputes, including land-related disputes (Diah, 2016), (Sumardjono, 2008), (Hanifah, 2016).

The issue of land rights dates back to pre-independence times, where disputes arose due to different interests between colonials and indigenous people. Oel'ekam residents tend to prefer resolving land disputes through local customary approaches, which they believe are more practical, economical and effective, avoiding antagonistic feelings and providing a higher level of satisfaction, compared to litigation involving the judiciary, which is less efficient, time-consuming and often leaves some cases without a solution (Muskibah, 2018), (Cahyani, 2022), (Purba, 2018).

From initial observations in Oel'ekam Village, Central Mollo Sub-district, South Central Timor District, three incidents related to land disputes were identified. The first incident occurred in 2017, involving A taking control of inherited land belonging to B, even though the land had been allocated by their late father when he was still alive. The second incident occurred in early 2019, when the Pay family sold collectively owned customary land without information to the Sanam family, sparking a dispute between the two families. The third incident in late 2019, involved A and B in a land boundary dispute, where B cultivated A's long-neglected land beyond its proper boundary, sparking a dispute between the two. In dealing with these three disputes, the Oel'ekam community took steps to apply a local wisdom approach, where the disputing parties still respect and follow local customary law in resolving their disputes.

Based on the explanation contained in Article 3 paragraph (1) of Law of the Republic of Indonesia Number 4 of 2004 concerning judicial power, it is stated that the process of resolving cases is not only limited to the courts, but can also be through peaceful channels or arbitration (Rade et al., 2023), (Herry Anto Simanjuntak, 2021), (Khilmi & Hafidzah, 2020). Therefore, Oel'ekam villagers prefer to resolve land disputes by adopting the local wisdom method as an alternative method in resolving land disputes. They believe that resolving problems through this local wisdom approach is not only fairer, but also more effective in providing quick and simple solutions, as well as avoiding feelings of resentment and being able to provide a deterrent effect.

METHOD

This research is a type of empirical juridical research that is descriptive and uses a statutory approach (*statute approach*) and a legal anthropology approach with a case study method (*case approach*), limiting special research related to local wisdom which is used as customary law as an alternative in solving a problem (Fajar, Mukti ; Achmad, 2010), (Yunari, 2016). This research also uses primary data obtained from field research, including the results of interviews with customary heads or customary institutions and the people of Oel'ekam Village. Secondary legal materials are obtained from library research in the form of secondary materials on legal principles, legal principles, and legal doctrines. Field research data collection methods in the form of interviews whose questions have been prepared in advance, and observation of the implementation of ADR, this is done where the results are used as a complement to library legal research, with the aim that the results of field research and library research complement each other as research results that can be accounted for. Data analysis techniques with deductive logic and using grammatical and systematic interpretation.

RESULTS AND DISCUSSION

Characteristics of land dispute cases in the last 5 (five) years in Oel'ekam Village, Central Mollo Sub-District, South Central Timor District

Disputes are a familiar problem for community members. Since ancient times, land has been a source of dispute for humans. The existence of a fixed amount of land (limited) causes a struggle for land rights which can trigger prolonged land disputes. There are several cases of land disputes that occur in Oel'ekam Village, namely inherited land disputes, customary land disputes and land boundary disputes. Inherited land disputes in Oel'ekam Village often occur because residents in Oel'ekam Village are not aware of the importance of land rights ownership letters or land certificates. This is due to the times and the increasing standard of living for the people of Oel'ekam village to always be ready to compete in improving the standard of living of their own households. For inherited land disputes that arise as one of the problems that occur is an interesting problem because in general inheritance has a high economic and religious value.

Various problems that arise in the life of the Oel'ekam Village community, of course, the community wants easy and fast problem solving or solutions in order to maintain the comfort and peace of the Village itself. Responsibility for various problems that arise concerning the interests of the people of Oel'ekam Village is of course attached to the Village Head. Thus, the various disputes that arise in Oel'ekam Village ideally the Village Head should act as an arbiter or referee in resolving any disputes that occur without taking sides. The same is the case with customary land and land boundaries that have been established by Oel'ekam Village residents, all because they do not have valid proof of land ownership such as land certificates or other ownership letters, so that siblings or other parties can easily claim that the land is their land too.

The land boundary dispute is a dispute that arises between two parties who have rights to the adjacent land, this is caused by a misunderstanding of the interpretation of the area and boundaries of the land, the land boundary dispute occurs because there are several factors, namely the failure of communication between the two parties to the problem in their land boundaries and land boundaries that are only marked with a few living trees instead of pillars, So that after many years when the tree has died or has been cut down, the evidence of the land boundary has automatically disappeared and the evidence of the boundary is only known by their parents, but not told to their children so it is said that the case occurred because of a misunderstanding of interpretation, not because they wanted to own or seize.

Land grabbing that occurred in Oel'ekam Village was carried out by brothers and sisters whose land had been divided by their father when he was still alive. The land had been released for many years and was not cultivated by the siblings so that the land became empty land filled with various trees and grasses that grew on the land.

Of the three cases, namely the inheritance land dispute case, the customary land case and the boundary land case, which occurred of course because of differences of opinion from various thoughts so that they forgot what had been agreed together. This is of course there must be awareness from the villagers to make ownership rights to land so that they can avoid cases that will harm the community.

Forms of local wisdom used in resolving land disputes in Oel'ekam Village, Central Mollo Sub-District, South Central Timor District

Based on interviews by researchers with the Head of Oel'ekam Village, Mr. Markus, on Thursday, July 11, 2024, as the Oel'ekam Village Official at Mr. Markus' house who handles the settlement of land disputes at the Oel'ekam Village office, it was stated that the settlement was carried out with customary traditions and applicable customary law, there are stages in resolving land disputes by custom.

The steps to resolve land disputes according to local wisdom in Oel'ekam Village are:

- a. The party experiencing a land dispute will report to the village office by bringing a betel nut holder (*oko mama*) and in the betel nut holder contains betel nut, areca nut and a note totaling Rp.5,000 and then convey their complaints to the village head.
- b. After receiving the report, the head of Oel'ekam Village made a decision to determine the day on which the two parties would be summoned to resolve the case.
- c. After the two parties were summoned, the settlement would begin with questions from the Village Head to tell the chronology of the case.
- d. Then a solution was sought that could be used to resolve the land dispute.
- e. After finding a solution and knowing the truth, the next stage is for the guilty party to be sanctioned in the form of applicable customary law.
- f. The applicable customary law is a fine in the form of one large pig, 50 kg of rice and 20 liters of liquor (*tua botel mese*). The fine will be brought by the guilty party on a day to be determined together and will present all residents of Oel'ekam Village to eat and drink together as a deterrent effect not to repeat it again.

Based on the results of an interview by the researcher with Mrs. AS (2024) as the party who directly experienced the land dispute in Oel'ekam Village on Thursday, July 11, 2024, at 17.00 Wita at Mrs. AS's house with the question how is the form of local wisdom used in resolving land disputes in Oel'ekam Village, Central Mollo Subdistrict, South Central Timor District?

It is said that the form of local wisdom used in resolving the land dispute experienced by Mrs. A and Mr. U is that Mrs. A brought a betel nut holder (*oko mama*) and in the betel nut holder contained betel nuts, areca nuts and paper money totaling Rp.5,000 and then conveyed her complaints to the head of Oel'ekam Village. After the case was presented the village head made a decision to determine the day on which both parties would be summoned to resolve the case. After the two parties are summoned, the settlement will begin with questions from the village head to tell the chronology of the case, then find a solution that can be used to get the results of resolving the land dispute, after getting a solution and knowing the truth, the next stage is that the guilty party will be subject to applicable customary penalties such as fines in the form of one large pig, 50 kg of rice and 20 liters of liquor (*tua botel mese*) the fine will be brought on a day to be determined together and will present all residents of Oel'ekam Village to eat and drink together as a deterrent effect not to repeat it again. The people of Oel'ekam Village are invited so that they can witness firsthand and know the applicable customary punishment, so that they will also be afraid and not do the same thing repeatedly.

The reason they use local wisdom settlement is because local wisdom settlement guarantees justice where there is no fraud in the settlement so as to ensure satisfaction for both parties. Based on the results of an interview by the researcher with Mr. HP as a party who directly experienced land disputes in Oel'ekam Village on Monday, July 15, 2024, at 08.00 Wita at his house with the question How is the form of local wisdom used in resolving land disputes in Oel'ekam Village, Central Mollo Subdistrict, South Central Timor District?

It is said that the form of local wisdom used in resolving the land dispute experienced by Mr. HP and the Sanam Family is said that the form of local wisdom used in resolving the land dispute experienced by Mr. HP and the Sanam Family begins with the Sanam family bringing a betel nut holder (*oko mama*) and in the betel nut holder contains betel nuts, areca nuts and paper money and then conveys their complaints to the Oel'ekam Village head. After the complaint was conveyed, the village head made a decision to determine the day on which the two parties would be summoned to resolve the dispute.

After being summoned by both parties, the settlement will begin with questions from the Village Head of both parties to tell the chronology of the case, then find a solution that can be used to get the results of the land dispute settlement. After getting a solution and knowing who is guilty, the next stage is that the guilty party will be imposed with applicable customary laws such as fines in the form of 1 large pig, 50 kg of rice and 20 liters of liquor (*tua botel mese*) the fine will be brought on a day to be determined together and will present all Oel'ekam Village residents to eat and drink together as a deterrent effect not to repeat it repeatedly. The people of Oel'ekam Village are invited so that they can witness firsthand and know the applicable customary punishment so that they are also afraid and do not do the same thing.

Another reason they use local wisdom settlement is because local wisdom settlement guarantees justice where there is no fraud in the dispute settlement so as to ensure satisfaction for both parties. Based on the results of an interview by the researcher with Mrs. A as the party who directly experienced the land dispute in Oel'ekam Village on Tuesday, July 16, 2024, at 17.00 Wita at Mrs. A's house with the question How is the form of local wisdom used in resolving land disputes in Oel'ekam Village, Central Mollo Subdistrict, South Central Timor Regency?

It is said that the form of local wisdom used in resolving the land dispute experienced by Mrs. A and Mr. S is that it starts with Mrs. A bringing a betel nut holder (*oko mama*) and in the betel nut holder contains betel nuts, areca nuts and banknotes of Rp.5,000 and then conveys her complaints to the local village head. After the complaint was conveyed, the village head made a decision to determine the day on which the two parties would be summoned to resolve the case. After both parties are summoned, the settlement will begin with questions from the village head to tell the chronology of the case, then find a solution that can be used to get the results of resolving the dispute, after getting a solution and knowing who is guilty, the next stage is that the guilty party will be imposed with applicable customary penalties such as fines in the form of 1 large pig, 50 kg of rice and 20 liters of liquor (*tua botol mese*) the fine will be brought on a day to be determined together and will present all residents of Oel'ekam Village to eat and drink together as a deterrent effect for the guilty party. This can be witnessed directly by all villagers so that they are afraid and will not do the wrong thing in this case seizing other people's land.

The forms of local wisdom used in resolving land disputes in Oel'ekam Village are customary traditions and applicable customary laws. The customary tradition that applies in Oel'ekam Village to resolve land disputes begins with the party who reports the dispute case he is experiencing to the Village Head by bringing an betel nut holder (*oko mama*) containing betel nut and a paper money of Rp.5,000 to convey his complaint.

Then the Village Head takes the betel nut that has been brought by the community who reported the land dispute case as a symbol that the report has been accepted. then the Village Head tells the community to return and a day will be determined where they will be called by both parties to the dispute to resolve the case they are disputing, after being called by both parties, the Village Head is in charge as a mediator in resolving the land dispute.

The village head will provide an opportunity for both parties to tell the true chronology of events and then find a solution that can be used to get the results of resolving the dispute, after getting a solution and knowing who is guilty, the next stage is that the guilty party will be charged with the applicable customary penalty, namely a fine in the form of 1 large pig, 50 kg of rice and 20 liters of liquor (*tua botol mese*) The fine will be brought on a day to be determined together and will present all Oel'ekam villagers to eat and drink together as a deterrent effect for the guilty party.

According to an interview with Mr. PL on July 11, 2024 at 17.00 Wita he stated that because local wisdom settlement guarantees justice where there is no fraud in the settlement of land disputes so as to guarantee satisfaction for both parties.

Advantages and disadvantages of local wisdom dispute resolution

Based on efforts to resolve disputes through the courts, the results are often disappointing or the decisions are unsatisfactory, costly, and take a very long time. The slow pace of dispute resolution through the courts led to the issuance of a Supreme Court policy in 1992 stating that every case at the district court and high court level must be resolved within no more than 6 months.

This was based on the fact that many cases were piling up in court and not being resolved. In such a situation, the choice of local wisdom settlement is a good option according to the people of Oel'ekam Village in resolving land disputes because it is considered more effective. Considerations where people tend to utilize local wisdom dispute resolution include:

1. Settlement is quick to materialize: The process of reaching a settlement can sometimes take one or two meetings between the disputing parties.
2. Low cost: In general, the mediator, in this case the village head, is not paid, the administrative costs are small and there is no need to have a lawyer present.

3. Confidential: Everything expressed by the parties in the process of submitting their opinions to the mediator is closed, not open to the public as in court proceedings.
4. Unemotional: The approach is directed towards mutually beneficial cooperation to reach a compromise.

Besides the advantages of choosing local wisdom dispute resolution, there are also disadvantages, namely:

1. The execution mechanism is difficult because of the way the decision is executed.
2. Very dependent on the good faith of the parties to resolve the dispute to completion.
3. The mediator will not bring good results especially if insufficient information and authority is given to him/her.
4. The absence of an official document that serves as evidence of the settlement may cause problems in the future.

CONCLUSION

The characteristics of land dispute cases in the last five years in Oel'ekam Village, namely inheritance land disputes, customary land disputes, land boundary disputes that have occurred in Oel'ekam Village are because residents in Oel'ekam Village are not aware of the importance of land ownership documents or land certificates, so that if there are family parties or their brothers who seize inherited land from their parents for their sisters, there is no strong basis, for women to act because they assume that men are more powerful over inheritance from parents than women.

Forms of local wisdom used in resolving land disputes in Oel'ekam Village, Central Mollo Subdistrict, South Central Timor District The forms of local wisdom used in resolving land disputes in Oel'ekam Village are by means of customary traditions and applicable customary law. The customary tradition that applies in Oel'ekam Village to resolve land disputes begins with the party reporting the dispute case to the Village Head by bringing a betel nut holder (*oko mama*) containing betel nut and a Rp.5,000 note to convey their complaints. The customary law that applies to the party who is said to be guilty in the land dispute will be subject to a fine in the form of 1 large pig, 50 kg of rice and 20 liters of liquor (*tua botel mese*) the fine will be brought on a day to be determined together and will present all Oel'ekam villagers to eat and drink together as a deterrent effect for the guilty party.

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