

Land Disputes and Settlement at the Notary

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Abstract. This research aims to explore the role of notaries in resolving land disputes as an effort to realize legal certainty and protect the rights of the parties involved. Land disputes are complex problems that often involve various parties with diverse interests. The research method used is empirical law to illustrate how notaries can be effective mediators in resolving land disputes. The research results show that the role of notaries in the context of land disputes is very important to create legal certainty and prevent conflicts. Notaries not only act as makers of land deeds, but also as legal advisors, mediators and expert witnesses in court. By carefully examining documents, providing legal advice, and playing a role in the dispute resolution process, notaries can help reduce the risk of disputes, provide effective resolution pathways, and add additional strength to evidence in court. The holistic existence of a notary helps create a stable and fair legal environment regarding land ownership in society.

1. INTRODUCTION

Land, as a primary asset in human life, plays a very central role in various dimensions of life. From an economic perspective, land is not only productive land for agriculture or development, but is also a resource that can be reserved as a future investment. Land has the ability to improve community welfare through optimal use and wise management. Apart from that, land also has a deep spiritual aspect (Karini, 2021).

As a place of human settlement and activity, land is a silent witness to the history of a society's life. The connection with life after death adds a sacred dimension to land, where land is not only a burial place, but also a symbol of human connection to the cycle of life and eternity. In a political and social context, land ownership can determine a person's position in the structure of society, as well as create cultural capital that influences social status (Ramadhani, 2019).

Rapid technological developments have had a significant impact on land dispute cases in society. Increasingly sophisticated technology, especially in surveying and mapping, has given rise to uncertainty regarding land ownership and land rights. The use of technology such as geographic information systems (GIS) and drones in land mapping can trigger conflicts due to differences in the data produced. Incompatibility between traditional land maps and digital data often triggers disputes, considering that many people's understanding of land ownership is still based on physical and customary boundaries (Ardiyanto, 2021).

The complexity of land dispute cases is also increasing along with urbanization and the transformation of land from agricultural to urban areas. Land conversion and property development can create a situation where land previously considered traditionally owned becomes the subject of conflict between traditional owners and parties with commercial interests. Settlement of land disputes not only requires a strong understanding of the law, but also better integration of technology to achieve justice and order in land management in this increasingly modern era (Soenartho & Sudiro, 2023).

Effective resolution of land disputes is the main key to preventing disruption in people's lives. This shock includes various inconveniences in daily activities, ranging from legal uncertainty regarding land ownership to the potential for social conflict that could harm various parties. Dispute resolution is not just about ensuring legal certainty, but also building a solid foundation for justice and peace in society (Manan, 2014).

Civil disputes, especially those related to land, are problems that involve personal interests between individuals. In resolving these disputes, a holistic and fair approach is needed, accommodating the interests of all parties involved. Transparent, fast and accurate settlement steps can prevent the community from potential uncertainty, provide confidence to land owners, and in turn, ensure the continuation of harmonious social life. Therefore, an effective dispute resolution system

needs to be the focus in responding to the complexity of current societal and technological developments (Syarif, 2014).

The emergence of legal disputes in the land context often begins with complaints from one of the parties raising objections, claims for land rights, or disputes regarding land priorities and conditions. The hope is that a settlement can be achieved administratively, in accordance with applicable legal provisions. During the Dutch government, the Notary institution was established to accommodate various aspects in the realm of civil law, especially the need for proof and regulation of Notary quotas in a region. The aim is so that Notaries can carry out their profession properly and in accordance with applicable regulations (Putra, 2019).

In practice, Notaries are often the party directly involved in resolving land disputes. This is due to their role in making deeds, which are legal documents that serve as proof of land transactions and ownership. In order for the deed he makes to be a requirement for registration at the Land Office, the Notary must ensure that the deed meets the specified formal and material requirements. Therefore, the precautionary principle is very important for Notaries in carrying out their duties, with the aim of preventing the possibility of land disputes arising in the future (Amalia & Ngadino, 2021).

The notary, as a key figure in the process of acquiring land rights, also has the responsibility to ensure that every deed he makes reflects valid and legal conditions and rights. Thus, the principle of prudence applied by Notaries not only supports legal certainty, but also plays a role in preventing land conflicts that could harm the parties involved (Sari & Priandhini, 2022). Therefore, a deep understanding of land law and the obligations of Notaries in this context is essential to maintain the integrity and trust of the public in the notarial profession.

2. METHOD

The type of research used by the author in this research is empirical juridical research. Empirical juridical legal research, namely legal research regarding the application or implementation of normative legal provisions in action at each specific legal event that occurs in society (Efendi & Ibrahim, 2018). Characteristics and empirical legal research is research that starts from the gap between normative implementation rules (Law in books) and reality rules (Law in action). The research approach that researchers use is the statutory regulations approach. The source of legal materials used for analysis in this research is primary legal materials obtained directly from the source, either obtained through interviews, observations or in the form of unofficial reports and documents obtained by researchers. Secondary legal materials are research materials taken from literature studies consisting of primary legal materials, secondary legal materials and tertiary legal materials. The techniques for collecting legal materials are observation techniques, interview techniques and documentation techniques. The legal material analysis technique used by researchers is that researchers draw conclusions to solve the main problems stated in the problem formulation using qualitative descriptive analysis. choosing to use qualitative methods if the research objective is to understand how a community or individual perceives a particular issue.

3. RESULT AND DISCUSSION

The role of notaries in minimizing the risk of land disputes is very strategic, especially through preventive measures such as examining documents, land records and verifying land ownership. By carrying out a careful inspection, the notary can identify potential disputes or legal problems that may arise related to land ownership. This step not only creates legal certainty, but also provides a form of protection for all parties involved in land transactions (Hadyanto, 2021).

A Land Deed made by a notary is a legal instrument that has strong evidentiary power in the eyes of the law. The deed is not only a form of documentation of land ownership, but also a basis that can be used to protect the ownership rights of the parties concerned. By keeping a copy of the Land Deed and registering it with the National Land Agency (BPN) or authorized land office, the notary ensures that the document is officially recorded and can be accessed by interested parties (Anatami, 2017).

The notary acts as an independent witness and recorder in the process of making a Land Deed, giving validity and legal force to the document. The existence of a notary as a neutral and professional

party also provides confidence for the public regarding the legitimacy of land transactions. Official registration of Land Deeds by a notary helps create legal certainty and protection of land ownership rights recorded in the document (Nurjanah, 2023).

The regulations and legal regulations governing the role of notaries in making Land Deeds aim to ensure the validity, enforceability and legal certainty of land transactions. In addition, protection of all parties involved in the process is the main focus, so that the land system can function efficiently and fairly, while minimizing the risk of detrimental disputes. Thus, the role of a notary is not just administrative, but also as a guardian of justice and legal certainty in land transactions in society (Darusman, 2016).

The role of notaries is also relevant in resolving land disputes. Notaries can provide information and legal advice to the parties involved, clarify land ownership through document inspection, or provide witnesses and evidence needed to resolve disputes. The role of a notary in land disputes in Indonesia can include several things, including:

Document Check

Notaries play a crucial role in handling land disputes by carrying out in-depth examination of documents that are the source of the conflict. This inspection process involves a careful analysis of the validity, validity and authenticity of each document related to land ownership. Notaries have an obligation to ensure that these documents meet applicable legal requirements, including formal and material provisions stipulated by law. First of all, the notary will check the validity of the documents related to land ownership. This involves exploring the legal validity of any deeds or documents that are the basis of the dispute. This examination is very important to determine whether the documents meet formal requirements and whether the transactions or agreements contained therein are valid according to applicable law.

Next, the notary will assess the validity of these documents. This includes checking the effective date of the documents, whether the transaction or agreement is still valid, and whether there have been changes in the law or other factors that may affect the validity of the documents. Finally, the notary will ensure the authenticity of documents related to land ownership. This examination aims to ensure that the documents presented as evidence in a dispute are truly genuine and not falsified. Document authenticity is an important basis for ensuring the integrity and legitimacy of the dispute resolution process. By carrying out this in-depth inspection, the notary contributes substantially to preventing land disputes caused by discrepancies or defects in land ownership documents. This process also shows the important role of notaries as guardians of legal certainty and justice in land transactions in society.

Dispute Documentation

Notaries have a strategic role in handling land disputes with their ability to document all related processes and events. When a land dispute arises, a notary can make a deed that records in detail the entire chronology of the dispute. This includes an in-depth explanation of the claims made by the parties to the dispute, the available evidence, and the actions taken by each party. This documentation not only includes basic facts, but also provides relevant legal analysis that can support each party's arguments. Notaries, as independent legal experts, have the responsibility to create objective and accurate records. This comprehensive documentation can be a strong foundation in the dispute resolution process, either through justice or alternative methods such as mediation or arbitration.

Apart from that, a deed made by a notary can also be a very valuable piece of evidence. In situations where land disputes reach court, documents prepared by a notary can be used as valid and strong evidence. This provides a solid basis for the parties involved to defend their claims or prove their land ownership. Careful and professional documentation by a notary helps create transparency, sustainability and fairness in resolving land disputes. With their role as more than just a recorder, notaries help create legal certainty in land disputes. The documentation they produce can be a valuable reference for parties, lawyers and authorities to fully understand the context and dynamics of land disputes, and ensure that the resolution reflects fair and just legal principles.

Mediation

Notaries have a significant role as mediators in efforts to resolve land disputes. As a neutral and independent party, a notary can help reduce tension and reconcile conflicts between disputing parties.

In his capacity as a mediator, the notary has no personal interest in the outcome of the settlement, so he can provide an objective and fair approach. The mediation process carried out by a notary involves various stages, starting from facilitating meetings between the disputing parties, helping them to understand each other's perspectives, to detailing the issues underlying the land dispute. Notaries also have the ability to facilitate negotiations and guide parties to reach an agreement that is acceptable to all parties.

In addition, notaries can assist in drafting dispute resolution agreements. They will ensure that the agreement meets applicable legal requirements and reflects a valid and fair agreement. The role of a notary in drafting an agreement also provides legal certainty regarding the implementation of the agreement and can be used as a legal document in resolving land disputes. Thus, the notary's role as a mediator not only helps defuse conflicts, but also contributes to achieving a solution that is sustainable and benefits all parties involved. Mediation by a notary does not only rely on legal expertise, but also prioritizes communication and diplomacy skills to create a conducive environment for resolving land disputes in an efficient and effective manner.

Providing Legal Advice

Notaries play an important role in providing legal advice to parties involved in land disputes. With their legal expertise, notaries can provide in-depth explanations of legal rights and obligations relevant to land ownership. They carefully detail the legal aspects related to the dispute, such as the validity of documents, limitations on ownership rights, and other legal provisions that may affect the case. In addition to providing an understanding of legal rights, notaries also have the responsibility to provide detailed information regarding available dispute resolution processes. They can explain the options to consider, including court proceedings, mediation, or arbitration, and the advantages and disadvantages of each method. This helps disputing parties to make informed decisions and choose the resolution path that best suits their situation.

Notaries can also provide practical advice on steps that can be taken to resolve land disputes legally. This includes providing guidance on how to gather strong evidence, maintain effective communication with the other party, and avoid actions that could escalate the dispute. By providing appropriate legal advice, notaries help create a better understanding for the parties to a dispute regarding the legal consequences of each step they take. With their role as legal advisors, notaries contribute to the resolution of land disputes in a way that ensures compliance with legal norms and provides legal clarity for all parties involved. A good understanding of the legal aspects of the dispute allows parties to make wiser decisions and speeds up the overall resolution process.

Provide Evidence and Witnesses

In resolving land disputes in court, the role of a notary can be very critical. A notary can be presented as a witness to provide information regarding the process of making a land deed and the validity of documents related to land ownership. The notary's expertise in detailing the procedures for making land deeds as well as his knowledge of the legal provisions governing the making and validity of property documents are valuable assets in court proceedings. Notaries can provide in-depth and objective testimony regarding how the process of making a land deed was carried out. They can explain the steps taken to ensure the accuracy and validity of the documents, as well as how the documents comply with applicable laws. A notary's statement can provide insight into the formal and substantial aspects of the property transaction that are the source of the dispute.

The presence of a notary as a witness in the trial provides additional strength and validity to the evidence presented. Notaries are considered independent parties and are obliged to provide honest and accurate information. In their role as expert witnesses, notaries help the court to understand the context and applicability of the documents that are the focus of the trial. It is important to note that the notary's role as a witness is usually limited to providing information about the process and validity of the document, not a legal opinion about the substance of the dispute. Thus, the presence of a notary as a witness in court helps create a strong and trustworthy basis for the court to make fair and lawful decisions regarding land disputes.

4. CONCLUSION

The role of notaries in resolving land disputes is very important and multifaceted. Notaries not only act as land deed makers to record property ownership, but also act as legal advisors, mediators, and even expert witnesses in court. In an effort to prevent disputes, notaries carefully examine documents to ensure validity and enforceability, identify potential legal problems, and provide legal advice to the parties involved. When a dispute occurs, the notary can act as a mediator to help reach a mutually beneficial agreement. In the context of a court settlement, a notary can be presented as a witness to provide information regarding the process of making a land deed and the validity of related documents. The involvement of a notary as a witness provides additional strength to the evidence presented, ensuring that the dispute resolution process is carried out with legal clarity and integrity. Overall, the role of a notary includes aspects of prevention, advice, conflict resolution and support in the legal realm. The existence of a notary helps create legal certainty, minimizes the risk of disputes, and makes a positive contribution to justice and order in land ownership. In this way, the role of a notary is not only limited to administrative functions, but also involves moral and ethical responsibilities to support a well-functioning legal system.

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