


Law Enforcement Against Criminal Acts of Unauthorized Use of Land (Study at Simalungun District Police)

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Article Info	ABSTRACT
<p>Keywords: Law Enforcement, Criminal Offenses, Unauthorized Use</p>	<p>There are many cases of people using or occupying other people's land without permission. This can take the form of physically occupying land, cultivating, or even selling land without rights. This causes legal conflicts and harms the legitimate owner. This study aims to analyze law enforcement against criminal acts of using land without permission based on law in Simalungun. The research method used is empirical juridical, with a case study approach and a conceptual approach. The results of the study on Law Enforcement Against Criminal Acts of Unauthorized Land Use at the Simalungun Regency Police show that the legal basis used in prosecuting this violation is Presidential Regulation in Lieu of Law (Prp) Number 51 of 1960 and Law Number 11 of 2020 concerning Job Creation. This study confirms that despite the renewal of legislation through UUCK, Prp No. 51 of 1960 is still valid because there has been no explicit cancellation. The provisions of sanctions as stated in Article 6 of Prp No. 51 of 1960, namely a prison sentence of 3 months and/or a fine of Rp7,500, are still used as the basis for law enforcement. In fact, if the violation has reached the stage of selling or mortgaging land that is not his, the perpetrator can be charged with Article 385 of the Criminal Code concerning fraud in land ownership.</p>
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INTRODUCTION

The Unitary State of the Republic of Indonesia is a state based on law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Siallagan, 2016). In a state of law, all actions of citizens and government must be based on applicable legal provisions (Rahmatullah, 2020). Law is the basis for creating an orderly, just life and guaranteeing legal certainty for all elements of society (Riwanto, 2017). In this context, law enforcement is an important instrument for regulating relations between citizens and the state, as well as guaranteeing individual rights, including land rights (Yuniar et al., 2024).

The problem of using land without permission is one issue that reflects the weak legal awareness in society (Uway, 2017). This phenomenon not only violates the principle of the rule of law, but also creates uncertainty over land rights, social conflict, and even prolonged disputes. The use of land without permission can be categorized as an unlawful act, which if done intentionally and systematically can fall into the realm of criminal acts (Br. Sitepu et al., 2020). This case is very relevant for further study, especially in the context of law enforcement

and protection of land rights.

In Simalungun Regency, the problem of using land without permission is still often encountered. One example is the action of residents who use other people's land without permission, such as by constructing buildings or planting crops on the land. This practice not only harms the legitimate owner of the land, but also creates social tension that threatens the harmony of society. This act clearly contradicts the provisions of applicable law, both in criminal law and national agrarian law.

In terms of law, the use of land without a valid permit can be categorized as a criminal act as regulated in Article 167 of the Criminal Code (KUHP) and Government Regulation in Lieu of Law (Perpu) Number 51 of 1960 concerning the Prohibition of the Use of Land Without the Permission of the Authorized Person or His/Her Attorney (Elvlyn, 2020). This regulation strictly prohibits anyone from using land without permission from the authorized party, and stipulates criminal sanctions for violators. This shows that the state is serious about protecting citizens' rights to land ownership and use (Pardede, 2019).

One of the cases that has attracted attention is the one that occurred in Huta Panopaan, Girsang Village, Girsang Sipangan Bolon District, Simalungun Regency. In this case, a resident was found to have used someone else's land by building a hut and planting crops without the permission of the legal owner. This action certainly caused conflict between the landowner and the perpetrator, and is evidence that the legal awareness of the community regarding land ownership and use is still weak. This emphasizes the urgency of law enforcement in maintaining order and justice in society.

Unauthorized land use also often occurs due to population growth factors that are not comparable to land availability, as well as irregularities in spatial planning management. This is exacerbated by the lack of public understanding of agrarian law and weak supervision from local governments. For this reason, Law No. 51/Prp/1960 is an important legal basis in preventing and strictly prosecuting the practice of unauthorized land use.

Land has strategic value in community life and national development (Joni, 2016). Therefore, protection of land rights is part of efforts to guarantee welfare and social order. Article 33 paragraph (3) of the 1945 Constitution states that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This means that land management must be carried out fairly and in accordance with the law, without harming the rights of others.

This study aims to analyze law enforcement against criminal acts of unauthorized land use based on applicable laws in Simalungun Regency. The main focus of this study is to determine the extent of the firmness of law enforcement officers in prosecuting perpetrators of violations, how legal procedures are carried out, and the obstacles faced in the process of law enforcement against cases of unauthorized land use.

This research is important to conduct considering that the issue of unauthorized land use often causes social conflict, inequality of access to land rights, and has the potential to harm legitimate owners and damage orderly land administration. In addition, the lack of optimal law enforcement in such cases can lead to public distrust of the applicable legal system. Therefore, this research is expected to contribute to strengthening the land law

system, encouraging legal protection for legitimate land owners, and becoming policy input for local governments and law enforcement officers in developing strategies to overcome criminal acts of unauthorized land use more effectively and fairly.

METHOD

The type of research used in this study is empirical legal research. The type of empirical legal research is research that studies the legal behavior of society in relation to law and legal research that obtains its data from primary data and secondary data directly from the field (Muhaimin, 2020). Meanwhile, the approaches used by the author are the statute approach, the principle approach, the conceptual approach and the case approach.

Sumber data yang digunakan dalam penelitian ini yaitu: sumber dari data primer yang merupakan data which is obtained directly from the first source based on field research. Primary Data in this study was obtained through information and files in the Simalungun Police. While Secondary Data is data obtained through library materials or literature that is related to the object of research.

The data collection techniques used in this study are two ways, namely: direct interviews to the Simalungun Police with one of the Police named Bripda Pandu Pratama Sinaga, SH., MH as Juper (Examiner) who handled the case being studied. Then the library research literature study was carried out in two ways, namely Offline; namely collecting library research literature study data directly by visiting bookstores, libraries, in order to collect secondary data needed in the study.

The data analysis technique used in this study is a normative-empirical legal analysis, namely an analysis that combines a normative approach (based on legal norms or regulations) with an empirical approach (based on reality in the field). Normative analysis is used to examine legal provisions relevant to the case under study through library research such as law books, regulations, and other legal literature. Meanwhile, empirical analysis was conducted on data obtained from direct interviews with Bripda Pandu Pratama Sinaga, SH., MH, as the Examiner who handled the case, in order to understand how the implementation of legal norms takes place in law enforcement practices at the Simalungun Police.

Data from both sources were then analyzed descriptively and qualitatively using steps such as data reduction, data presentation, and drawing conclusions. Data reduction was carried out by sorting information relevant to the research focus, then presented in the form of a systematic description that compares normative provisions with the empirical reality found. The purpose of this analysis technique is to determine the extent of conformity or inconsistency between written law and practice in the field, as well as to provide an objective picture of the effectiveness of legal implementation in the cases studied.

RESULTS AND DISCUSSION

Results

The results of interviews conducted by researchers with Bripda Pandu Pratama Sinaga, SH., MH, an investigator at the Simalungun Regency Police, provide a clear picture of the law enforcement process for criminal acts involving unauthorized land use. As an investigator,

Bripda Pandu explained that every case submitted to the Police, including cases related to unauthorized land use, always begins with a public report to the Integrated Police Service Center. From this point, the legal process begins to run systematically and structured, in accordance with established procedures in the criminal justice system.

During the investigation, investigators will gather initial evidence and summon the relevant parties. The first parties questioned are the complainant and witnesses near the scene. In the case of unauthorized land use being studied, investigators emphasized the importance of land ownership documents as primary evidence. However, many complainants lack valid land ownership certificates, complicating the evidentiary process. This is where the investigator's role becomes crucial, unearthing the legal facts on the ground and ensuring that the complainant truly has legal standing to claim the disputed land.

Bripda Pandu added that in this case, the perpetrator erected buildings and planted land without the landowner's permission. The perpetrator argued that the land's status was unclear because it was unfenced and had been left vacant for years. However, according to Bripda Pandu, this reason cannot be used as legal justification. If someone occupies land that is de facto controlled by another person without permission, it is still categorized as a criminal act under Government Regulation in Lieu of Law Number 51 of 1960 and the provisions of Article 167 of the Criminal Code.

He further explained that many perpetrators in cases like this are unaware that their actions fall under the criminal law. Some believe that land disputes can be resolved through civil litigation, but if the elements of a crime are met—such as intent, unauthorized possession, and unlawful possession—then the act is worthy of criminal prosecution. Therefore, the police must work extra hard to provide legal education to the public, while ensuring that innocent citizens are not criminalized.

During the investigation process, a challenge investigators often face is interference from external parties attempting to influence the legal process. However, Bripda Pandu emphasized that in handling this case, he and his team always uphold integrity and professionalism. All processes are carried out according to standard operating procedures (SOPs), and there must be no interference from any party. Investigators' independence is key to achieving legal justice, particularly in land dispute cases that often involve influential individuals.

Bripda Pandu also highlighted the importance of synergy between the police and land agencies, such as the National Land Agency. In many cases, the BPN plays a crucial role in tracing land ownership history, validating documents, and establishing boundaries. If the BPN certifies that a land has a land title in the name of the complainant, this strengthens the victim's position in the legal process. Conversely, if there is no legal clarity, investigators must be careful not to misunderstand the perpetrator or victim.

Regarding the handling of the case being studied in this thesis, Bripda Pandu explained that the perpetrator had been summoned and questioned intensively. The perpetrator was given the opportunity to defend himself, but after a thorough examination of documents and witness statements, investigators found that the perpetrator did not have any legal rights to the land. Therefore, investigators continued the legal process by naming the perpetrator a

suspect and submitting the case file to the prosecutor's office.

During the follow-up investigation, the police also provided the parties with the opportunity to resolve the dispute peacefully through mediation. However, in this case, mediation proved unsuccessful because the landowner continued to demand eviction and legal proceedings for the crime. This serves as a lesson that non-litigation resolution is not always possible if one party persists in pursuing justice through formal legal channels.

This interview with First Brigadier Pandu Pratama Sinaga reinforces the understanding that law enforcement against unauthorized land use relies not only on written legal norms but also heavily on the professionalism of law enforcement officers in the field. Through this interview, researchers obtained valid and comprehensive information regarding how the law is enforced, the challenges faced, and the efforts made by officers to establish justice in society.

Discussion

Land Control Without Permit on Certified Land

Sertifikat merupakan surat tanda bukti hak yang berlaku sebagai alat pembuktian yang kuat mengenai data fisik dan data yuridis yang termuat di dalamnya, sepanjang data fisik dan data yuridis tersebut sesuai dengan data yang ada dalam surat ukur buku tanah yang bersangkutan (Hulu, 2021). In the event that a certificate has been legally issued for a plot of land in the name of a person or legal entity who acquired the land in good faith and actually controls it, then other parties who feel they have rights to the land can no longer demand the implementation of these rights if within a period of 5 years from the issuance of the certificate they do not submit a written objection to the certificate holder and the head of the relevant Land Office or do not file a lawsuit in court regarding control of the land or the issuance of the certificate (Hulu, 2022).

According to Government Regulation No. 10 of 1961, a certificate consists of a copy of a land book containing legal data and a measurement letter containing physical data on the rights concerned, bound together in a document envelope (Article 13) (Yusuf Saepul Zamil & Yani Pujiwati, 2022). The method for making a certificate is the same as making a land book, with the provision that notes which are temporary and have been deleted are not included (Klaudius Ilkam Hulu, 2021).

The provisions in Article 5 of the UUPA provide a place and recognition for the rights of customary law communities related to ownership of land that has not been registered or does not have a certificate as long as it does not conflict with national law (Kusuma et al., 2017) Customary law is used as the basis for (new) national agrarian law, which is an affirmation of recognition of the dominant law and has been perfected in accordance with the interests of society and the modern state and in relation to the international world (Jiwa Utama & Febri Aristya, 2015).

Based on the research case in Simalungun Unauthorized land control above certified and uncertified if there is someone or another party who controls the land without permission who has the right or legal power of attorney on land that has been certified can be interpreted as the legality of legal land ownership belonging to the reporter or its owner issued by the state. In this case, the valid certificate can be issued by the National Land Agency (BPN) of

the Regency or City. The problem of certified land can be followed up or sanctions given to the perpetrators who use the land without permission related to the land which can be applied to Article 2 of Law No. 51 of 1960 which is threatened with a sentence of 3 months, this is included in minor crimes.

Based on the results of the interview with Mr. Juper at the Simalungun Police, it was stated that Tipiring is a case that is threatened with a maximum prison sentence of three months, a maximum fine of Rp. 7,500.00, and minor insults. However, tipiring is excluded from certain violation cases in traffic laws and regulations, although the threat of punishment is less than three months. In accordance with the provisions of Article 205 of the Criminal Procedure Code, tipiring cases can be examined by means of a tipiring examination.

The above land ownership that has not been certified by SKT letter or letters that have been issued by the local government or national land agency, then the police cannot process residents who have done the land without permission. This can be regulated in the Regulation of the Chief of Police as well as regulated in the Regulation of the Ministry of Agrarian Affairs or the National Land Agency. Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations is a law that regulates land. Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations mandates that land registration be carried out in the territory of Indonesia, so that implementing regulations for land registration were issued (Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations)(Yustini, 2023). The implementation of land registration is regulated in Government Regulation of the Republic of Indonesia Number 10 of 1961 concerning Land Registration, which was refined by Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration (Klaudius Ilkam Hulu, 2021). This regulation governs the implementation of land registration including the process of changing land ownership rights.

The provisions of Article 39 paragraph (1) of the Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration explain that a PPAT deed for land that does not yet have proof of ownership in the form of a certificate can be made with the following requirements:

1. Proof of ownership or a statement made by the Village/Sub-district Head confirming that the rights holder has control over the land; and
2. A certificate from the local Land Office stating that the land does not yet have proof of ownership in the form of a certificate, however if the Land Office is located far from the land, the rights holder can make a certificate that is confirmed by the Village/Sub-district Head.

Based on the results of research at the Simalungun Police, the case of land ownership is that the Reporter has strong evidence in the land area, by having a Certificate of Ownership with valid information in the Certificate of Ownership explaining the boundaries of the land controlled by the reported party. A Certificate of Ownership is very important in a land area to find out the ownership of a piece of land. However, if you do not have a Certificate of Ownership, the case can be stopped based on Law No. 5 of 1960 concerning UUPA. That the legal right to land ownership is a Certificate.

Settlement of Unauthorized Land Occupation at Simalungun Police

Land is a necessity, every human being always tries to have it, and maintain it no matter what happens (Syahri, 2014). Land can be owned by anyone, individuals, communities as groups, or legal entities (Elvlyn, 2020). At one point, land becomes an inheritance or company asset and even becomes a sacred object to be fought over because it has an economic value that will increase in value every year and this is what causes land conflicts.

The problem of land ownership without rights is a problem that is very closely related to control over a piece of land or land that is still empty, but there is also control over land that is intentionally carried out due to a common origin or proof of ownership, but basically only belongs to someone who has rights to the land. This problem is a problem that requires serious handling by the judiciary and even other related institutions or agencies in making efforts to resolve it.

The settlement of unauthorized land ownership in Simalungun Regency in this study was carried out by resolving it through litigation. In this case, it can be directed to the competent Nagori, sub-district or district to summon the land problem between the two parties who both do not have clear legal rights and whose ownership is unclear. However, if the unauthorized land ownership has a civil nature, one party can sue the local court so that a civil lawsuit can be filed to state who has the right or legitimate ownership without having to have a debate or problem that ends up reporting to the police. Included in civil land disputes include:

1. Lawsuit for division of inheritance between adopted children and biological children
2. Sale and purchase of inheritance property
3. Dissatisfaction of heirs with the division of inheritance

However, it can be explained that this research is not included in civil law because it does not refer to one of the civil land disputes. But this case refers to a criminal act which takes the rights of others by controlling land without permission as stated in Law No. 51 of 1960.

In the case studied on the control of land without permission which is applied with Law No. 51 of 1960, this is a minor offense, so the Simalungan Police can make efforts against the perpetrators of land use without permission, then socialization will be provided with mediation which can create a deterrent effect or public awareness not to do the same thing again by erecting buildings or planting plants on land that is not theirs with land that has the certificate by considering the threat of a minor criminal penalty.

Based on the evidence of the reporter in land ownership can be done with the existence of legality that has been legally recognized by the state, namely through the National Land Agency. The Land Ownership Certificate issued by the state which states that the land is legally owned and then there are several people who make reports. In this case the reason is the Land Certificate or the letter of transfer of Rights. Such things are obstacles for investigators to carry out the investigation process, because the Regulation of the Minister of Agrarian Affairs and the National Land Affairs sector states that the legitimate ownership of the certificate. So if there is a problem that does not have a certificate, the Simalungun Police

can provide direction to make a Certificate by submitting it to the local National Defense Agency.

The Unauthorized Use of Land in Simalungun has a reason for the occurrence of Unauthorized Use of Land, one of which is Land that has not been used for a long time and has not been seen by its owner, resulting in other people cleaning and managing the land to utilize the results of which are managed from the land owned by other people without permission from the owner of the land, in addition to utilizing it by planting Trees or plants that can be sold and make money, such as planting Chilies and other vegetables. Not only that, the perpetrators of unauthorized use of land in Simalungun also built huts like small buildings made of wood and roofs. This is what causes the perpetrators to carry out Unauthorized Use of Land.

Based on the provisions of Article 2 of Law Number 51 Prp of 1960 concerning the prohibition of the use of land without permission which is still in effect at this time, that a person uses land without permission from the rightful party or disturbs the rightful party is threatened with imprisonment for a maximum of three months. In accordance with the provisions of Article 2 of Law Number 51 PRP of 1960 concerning the Prohibition of the Use of Land Without Permission which has the right to disturb the rightful party, it is threatened with imprisonment for a maximum of three months. In the legal process according to this provision, it is important to have evidence of a person's activity planting crops, or cultivating land or erecting buildings/huts on land owned by someone else. The criminal process uses a fast event, where police investigators act as prosecutors in a trial led by a Single Judge.

Meanwhile, the Government Regulation in Lieu of Law states that the use of land without permission from the rightful party or their legitimate attorney is a prohibited act and is also subject to criminal penalties, as stated in Article 2 yo, Article 6 paragraph (1) letter a, namely "without reducing the validity of the provisions in Articles 3, 4 and 5, it can be punished with imprisonment for a maximum of 3 (three) months."

Using land without permission is also a crime, identical to a violation of the law (Rahmanisa, 2020). Crime is an act that is done intentionally (doleus) and is done consciously with a certain intention to benefit oneself which is detrimental to other people or society (Supriyadi, 2015). In carrying out actions to resolve existing land disputes or conflicts, the national land agency is one of the mediation institutions that can resolve a land dispute by prioritizing justice, namely conflict resolution through deliberation and consensus by respecting the rights and interests of the disputing parties whose basic principle is a win-win solution or known as a "win-win solution" or normatively called a "Non-Litigation" or Alternative Dispute Resolution, which is then used to accommodate the implementation of the Alternative Dispute Resolution, the Government through Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This regulation is the benchmark for knowing how important mediation institutions are in resolving land conflicts.

Police Efforts to Curb Unauthorized Land Acquisition in Simalungun

Based on the provisions of the 1945 Constitution, it is firmly stated that the Unitary State of the Republic of Indonesia is a state based on law, and all Indonesian citizens are required to obey the supremacy of law, and all citizens have equal standing before the law.

This means that the law must be placed in the highest position, where all citizens must behave to the limits permitted by the law that has been set.

Efforts made by the Simalungun police to minimize unauthorized land ownership in this case the police make efforts which provide warnings to residents before issuing certificates or there has been socialization from the National Land Agency to issue certificates, the Police together with the National Land Agency can conduct or have conducted socialization to villages or remote areas which usually have a lot of land that does not have certificates. With this, the police firmly remind the public not to take control of land without permission from the person entitled to the power if they do not have legal rights to the land because it can give rise to a criminal act.

Thus the police provide socialization and warning to residents who have uncertified land to register the land with the National Land Agency, this is suggested to residents to avoid things that trigger criminal acts. Then the police also advise the parties involved in the dispute over land ownership if there is a civil test, the police direct it to the court to test who is entitled to ownership of the land.

In the Use of land without permission in Simalungun often occurs in Law Enforcement where many Land Ownership is based on no Certificate of Ownership of the community who do not have a certificate of ownership. while the National Defense Agency Regulation confirms that the Certificate of Ownership is Evidence of the Legal Land Rights. Therefore, every case of using land without permission, the Reporter has a Certificate of Ownership to report it to the police so as not to use residents' land carelessly without permission from the real landowner. A Land Certificate is a basis for rights to land that has not yet been converted or to state lands that are occupied by the community, either intentionally or arranged by the village head and ratified by the sub-district head, as if the land were someone's right or included in the category of customary rights (Nadzir & Suwandi, 2017).

Based on the description above, it can be understood that the Land Certificate is a form of recognition of ownership rights or control of cultivated land issued by the village or sub-district government. Land Certificates are usually given to individuals or groups who have managed or cultivated a plot of land for a certain period of time continuously and without dispute, even though they do not yet have an official certificate from the National Land Agency. Thus, the Land Certificate functions as initial administrative evidence in the process of legalizing cultivated land assets, which can later be upgraded to property rights through the certification process in accordance with applicable land law provisions.

CONCLUSION

Based on the research and discussion, it can be concluded that unauthorized land acquisition is a criminal act that gives rise to complex problems in land law and criminal law in Indonesia, especially when land that is not managed professionally, has no clear boundaries, or is abandoned is actually controlled by the surrounding community for their livelihoods. The problem becomes even more complicated when land that has been inhabited by the community for decades is suddenly certified in the name of a certain legal entity or corporation. In the context of law enforcement at the Simalungun Police, police officers apply

legal provisions based on the War Rule Regulation Number 51 of 1960 and Article 385 of the Criminal Code to impose minor criminal sanctions (Tipiring) against perpetrators of unauthorized land acquisition. This law enforcement must still fulfill formal elements, such as proof of legal ownership in the form of a Land Ownership Certificate (SHM), sale and purchase documents, and the identity of the heirs. Due to the complexity and sensitivity of land issues in Indonesia, further research is recommended to explore restorative approaches in resolving land conflicts and examine the effectiveness of collaboration between law enforcement officers and land institutions in preventing repeated unauthorized land acquisition.

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