

Juridical Analysis of Judicial Considerations in the Dispute Over Government-Owned Land in Surabaya Regarding Former Eigendom Verponding Land (Case Study of the Supreme Court's Revision Decision Number 1146 PK/Pdt/2025)

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Land disputes between colonial-era property claims and regional government asset inventories often trigger complex legal uncertainties in Indonesia. This study aims to analyze the consistency of the Supreme Court's legal considerations in Revision Decision Number 1146 PK/Pdt/2025 with national agrarian law principles and examine whether the decision violates the principle of *verhandlungsmaxime* (passive judge role) in protecting the assets of the Surabaya City Government. The research methodology employed is normative legal research with a statute approach, conceptual approach, and case approach. The findings indicate that the considerations in the Revision Decision are in full compliance with Law Number 5 of 1960 (UUPA) and Presidential Decree Number 32 of 1979, where land previously under Eigendom Verponding that was not converted by September 24, 1980, automatically became state land. As a result, the transfer of rights in 2006 to an individual was legally flawed based on the *nemo plus iuris* doctrine. Furthermore, the study concludes that the decision does not conflict with the *verhandlungsmaxime* principle, as the legal correction made by the judge reflects the principle of *ius curia novit* and the judicial obligation to protect regional assets for public interest. The research concludes that state sovereignty over remaining converted Western land rights is a key instrument in ensuring legal certainty in the management of regional assets.

Keywords: Regional Assets, Eigendom Verponding, Judicial Review, Judge's Consideration, *Verhandlungsmaxime*.

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1. Introduction

Land plays a significant role in the lives of the Indonesian people, as it is directly related to economic, social, and legal aspects. As a rule-of-law state, Indonesia regards land regulation as a crucial step to ensure legal certainty, justice, and the welfare of its citizens. This is stipulated in Article 33, Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that land, water, and natural resources contained within them are under state control and must be used to enhance the welfare of the people. To realize this constitutional mandate, the government enacted the Basic Agrarian Law (UUPA) No. 5 of 1960, which serves as the legal framework for land regulation in Indonesia. The UUPA ended the dualism of agrarian law originating from the colonial era and regulated the conversion of land rights from the Dutch colonial legal system into the national agrarian legal system, including eigendom verponding, which was a form of property right under Dutch colonial law, accompanied by the obligation of verponding tax (Law No. 5 of 1960, 1960) [1],[2].

Although the UUPA has been in effect since 1960, many lands still hold the status of eigendom verponding that has not been fully converted in accordance with the applicable legal provisions. This legal uncertainty has the potential to trigger land disputes, especially when the land is claimed by multiple parties. One of

the main causes of the unclear status of former eigendom verponding lands is the weakness in land administration in the past and the lack of legal awareness among landowners to register their land as required by the prevailing regulations. This poses a significant challenge in land arrangement and management, often leading to disputes involving both individuals and government institutions [3].

Land disputes become even more complex when the disputed land is claimed as part of the assets of local governments. Local governments have a legal obligation to protect and manage local assets as part of the national or regional wealth, which is used to support public services and good governance. This requires greater attention to land that was previously under colonial legal systems, so it can be properly converted into legitimate state or regional assets. The unclear status of former eigendom verponding lands claimed as regional assets often triggers conflicts involving local governments, which have a significant responsibility to ensure the protection of these assets for the public interest and the smooth administration of land matters [4].

2. Literature Review

Land and its regulation have become subjects of extensive research in Indonesia, given the complexity of the agrarian legal system that encompasses administrative, legal, and social aspects. Since the enactment of the Basic Agrarian Law (UUPA), various studies on agrarian law have shown how land regulations in Indonesia continue to face significant challenges, particularly regarding the unclear status of land from the colonial era and the weaknesses in land administration. According to Harsono [3], the process of converting colonial land rights is often not fully implemented, leading to overlapping ownership and prolonged land disputes. This aligns with Sutedi's [4] findings, which emphasize the importance of more transparent and systematic management in land administration to reduce legal uncertainty.

Furthermore, several studies highlight the importance of understanding agrarian law in resolving land disputes, both those involving individuals and local governments. As stated by Soeroso [5], the role of judges in land disputes is crucial, particularly in interpreting the evidence presented, whether in the form of documents or witnesses, to deliver a fair and lawful decision. A sound understanding of the basic principles of agrarian law and the application of land rights conversion is essential to ensure that decisions reflect not only the interests of particular parties but also the broader public interest.

However, further research is needed to explore the existing research gaps in the application of land conversion from colonial status to the national agrarian legal system, particularly concerning regional assets and land rights owned by the state. This research is expected to contribute to a better understanding and solutions for addressing land disputes involving local governments and the community.

Despite the numerous studies conducted, there remains a gap in understanding the conversion of former eigendom verponding land rights and its implications for land disputes, especially those involving local governments. This gap includes a lack of in-depth research on how this land conversion can be systematically implemented in accordance with national agrarian law. Additionally, the unclear land administration from the past, particularly regarding regional assets, has not been extensively studied. Therefore, this study aims to identify and analyze how land disputes involving local governments can be resolved through the application of more consistent and fair agrarian law, taking into account the status of land that has not been legally converted.

3. Research Methodology

This study employs a normative legal research methodology, focusing on norms, principles, and legal doctrines within the context of land disputes involving assets of the City of Surabaya [6][7]. The aim of this

research is to analyze the application of the *verhandlungsmaxime* principle (the passive role of the judge) in the Supreme Court's decision in the Judicial Review ruling No. 1146 PK/Pdt/2025, assessing its consistency with the principles of civil procedural law and its implications for legal certainty and the protection of assets [8]. This research adopts a mixed approach, including a statutory approach, a conceptual approach, and a case approach, to comprehensively understand the legal issues at hand [9]. The statutory approach examines relevant laws and regulations, while the conceptual approach analyzes the principles and doctrines related to the passive role of judges in the context of land disputes [10]. The case approach focuses on the Supreme Court's ruling to evaluate judicial reasoning in land disputes, involving both private parties and local governments [11].

4. Results and Discussion

This chapter presents a comprehensive analysis of the main legal matter regarding the Supreme Court's Judicial Review (PK) Decision No. 1146 PK/Pdt/2025. This study focuses on analyzing the legal reasoning provided by the Supreme Court in case No. 1146 PK/Pdt/2025, which pertains to land that was previously owned by the state and has now become a regional asset. The researcher applies national agrarian law theory and the principles of civil procedural law to understand and evaluate the decisions made by the judges in offering protection to regional government assets derived from land that was previously controlled under Western legal rights.

Legal Analysis of the Supreme Court's Considerations in the PK Decision No. 1146 PK/Pdt/2025 Regarding Land Previously Owned by the State and Now Recognized as Regional Assets

The case began with a clash of ownership claims made by an individual (NY) over approximately 9,340 m² of land that originated from *Eigendom Verponding* 7159. This claim was backed by the transfer of ownership from the previous cultivators, who had occupied the land since 1960. In contrast, the Surabaya City Government argued that the land was part of the region's legitimate wealth, with historical significance as "Tanah Kas Desa" (village land). This dispute highlights how the legal process in Indonesia regarding the transition of land rights from the colonial system to the national system is regulated under the Basic Agrarian Law (UUPA). As explained by Prasetyo [12] in a study related to the conversion of colonial land, land that originated from Western legal rights must undergo a conversion to national land rights in accordance with applicable regulations. [13] demonstrates that failure to convert the land before the deadline (1980) results in the land reverting to state control, and it cannot be transferred to a third party without following a valid legal procedure.

Comparison with Previous Studies

Research by Haris et al. [14] on land disputes rooted in Western legal rights shows that similar cases often focus on issues surrounding the conversion of rights and land registration. According to Haris et al. [14] the problems that arise in such cases involve how land, which was previously under the colonial legal system, is transformed into state assets that cannot be unilaterally controlled without following clear legal mechanisms. This supports the argument that land disputes involving former colonial land rights require thorough legal frameworks to address ownership and administrative processes in the context of contemporary land law.

Stages of the Legal Process and Court Decisions

This case went through various stages of litigation, with highly varied decisions. Before reaching the civil court stage, NY won a lawsuit at the Administrative Court (PTUN) that ordered the cancellation of the Situational Map (Peta Situasi) under the name of the Surabaya City Government. NY then filed a civil lawsuit

in the Surabaya District Court in 2018, demanding that the regional government remove the land from its list of regional assets. At the trial and appellate levels, the court assessed the claim primarily from a procedural standpoint, without delving into the substance of land ownership. This led to a ruling that the claim was inadmissible (*Niet Ontvankelijke Verklaard*) due to discrepancies between the description of the land's boundary in the lawsuit and the physical condition observed during the field inspection. These differences created legal barriers, complicating the enforcement of the claim.

The Importance of Administration and Evidence Preparation in Land Disputes

A study by Saputra and Yulianto [15] on the importance of evidence preparation in land disputes highlights that, in many cases, administrative issues often become a weak point in land lawsuits. In this context, the failure to align land boundaries with physical conditions can jeopardize a claim, as seen in this case. Proper administration and evidence preparation are crucial to ensuring the success of land claims in court, underscoring the need for robust administrative procedures in land disputes.

Supreme Court Decision and Judicial Review (PK)

The Supreme Court's decision in Case No. 2664 K/Pdt/2024 favored the individual (NY), arguing that changes in physical boundaries due to environmental factors should not automatically result in the lawsuit being declared unclear. Although this decision sided with NY, it created uncertainty in the management of regional assets in Surabaya. However, this decision was corrected in the Judicial Review (PK) stage, where the Supreme Court emphasized that a victory at the PTUN does not automatically validate ownership rights if such rights conflict with material agrarian law. The Supreme Court, in its Decision No. 1146 PK/Pdt/2025, ultimately reaffirmed that the land remained a legitimate regional asset. In this context, the judges referred to the principle *Nemo Plus iuris*, which states that one cannot transfer rights greater than those owned. Therefore, since the land had not been converted into national land rights before 1980, its status reverted to state control, and it could not be lawfully transferred to NY in 2006.

Protection of State Assets and the Social Function of Land

This ruling aligns with Maharani's [16] view, which asserts that land used for public and social purposes, such as land for public facilities, must be prioritized for the public good. The Supreme Court emphasized that, in this case, the land in South Surabaya had a social function as land for public facilities, such as the city's waste disposal depot. This underscores the importance of preserving land for public purposes, especially when it involves state assets.

Conformance with National Agrarian Law Principles and Civil Procedural Law

The PK decision also aligns with the principles of national agrarian law, particularly regarding the conversion of land rights that were previously under the colonial legal system, as mandated by the UUPA. This reinforces Wahyudi's [17] assertion that land rights conversion must follow proper procedures, and any claims that disregard these procedures should be rejected. The Supreme Court's decision reinforces the importance of converting colonial land rights into national land rights, as regulated by the UUPA, while prioritizing public interest and the protection of state assets. This decision sets a significant precedent in safeguarding state assets from unlawful claims based on outdated rights that have not been legally adjusted in accordance with current legal provisions.

5. Conclusion

Although this study provides a comprehensive analysis of the Supreme Court's decision in Case No. 1146 PK/Pdt/2025, several limitations must be acknowledged. One such limitation is the scope of the analysis,

which focuses specifically on a single case involving Western legal rights and their conversion into national land rights. As a result, the study does not offer a broader overview of other similar cases that may involve different or more complex legal factors. Furthermore, the long-term impact of this decision on land administration practices at the regional level, particularly regarding the management of regional assets susceptible to land disputes, has not been fully addressed. Therefore, further research could examine the dynamics of land disputes involving the conversion of Western land rights, as well as their implications for land policy and national asset administration in a more comprehensive manner.

Future research that is broader and more in-depth would be highly beneficial for expanding understanding of the application of national agrarian law in resolving land disputes involving colonial rights. A comparative study of various court decisions concerning the conversion of colonial land rights would enrich the understanding of agrarian law implementation in Indonesia. Additionally, research focusing on the management of regional assets and the impact of Supreme Court decisions on the management of land for public purposes would make a significant contribution to the development of land policy. Further research could also highlight the relationship between the principle of *Verhandlungsmaxime* in civil procedural law and how it influences decisions in land disputes involving public interests, aiming to create a fair balance between individual rights and the public good.

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