

OPTIMIZATION OF MEDIATION IN AGRARIAN CONFLICT RESOLUTION IN THE DISTRICT MESUJI IN CONNECTION WITH THE LAW NUMBER 5 1960 REGULATION OF BASIC PRINCIPLES AGRARIAN

Abdan Khubban

Pengadilan Agama Gunung Sugih, Lampung Tengah, Provinsi Lampung- Indonesia

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ABSTRACT: Agrarian conflict sticking lately actually comes from access and economic orientation of agrarian policies of the past. This chaotic place since colonial government and continued into the new order until now. The end of 2011, the national media exposes Mesuji case. A case characterized by its outstanding beheading video is torn into a national issue. The government immediately takes action to set up a Joint Fact Finding Team (Fact Finding Team) Mesuji case. Sector legislation concerning the management of resources contributed to the Agrarian enunciator Agrarian conflicts. Birth of various sectoral laws such as the law and the law of plantation forestry, impact on the management of diverse resources primarily agrarian land. The diversity of legal rules also cause disharmony that gave birth to the issue of inequality and deepening agrarian structure which leads to the agrarian conflict. Mediation process to resolve land conflicts between residents and the East Mesuji PT Prima Alumga (PPA), resumed. The company is ready to give some land to the citizens. Mediation meeting chaired by Regent Mesuji Khamamik, attended PPA owner Hepi Trenggono, Lampung Police Operations Bureau Chief Commissioner Sahimin, Tulang Bawang district police chief Assistant Commissioner of Shoebarmen, Head North Rawajitu Edyson Basid, and some community leaders Cambai River Village, East Mesuji. In the mediation meeting, Khamamik provide direction in order to resolve the land conflict mediation was undertaken in good faith and open mutual agreement. In previous meeting PPA agreed to manage his part of the land concession, then the results are given to people Cambai River and River Assembly.

KEYWORDS: Optimization , Mediation , Conflict , Agricultural , Mesuji , Law no. 5 of 1960.

1 INTRODUCTION

Homicides that occurred in Mesuji, Lampung, in September 2011 related to a conflict between the community and the company is a serious problem. Seriously called not only because it has resulted in loss of life, but also because this issue relates to the fate and lives of many people, both local people and the company itself is also overshadow so many people. On the side it is also related to the agrarian problem in Indonesia, which is one of the very many problems that occur in various parts of the country.

In a legal perspective, the land dispute that occurred in Register 45 Mesuji, Lampung had violated the rules contained in Law no 5 of 1960 on Basic Agrarian Regulation. Land managed by the people then evicted by the state company PT Silva. Soils should be enabled to provide maximum benefit for the prosperity and welfare of the people it has occupied for the maximum benefit of capital owners.

Mediation is an alternative comprehensive solution to the conflict between residents with companies that are believed to contribute very positively to the country in its various aspects, social, economic, including security and law enforcement. Optimizing mediation between various parties related to the conflict in Mesuji require maximum effort. Efforts settlement through mediation requires the commitment of many elements in order to provide the most favorable outcome for all parties.

To maximize the mediation process, it takes a solid team and mastering the problem as a whole, in addition to a total commitment on the belief that in this way will be able to give the best results. As part of the process of resolving legal problems especially in a large scale, mediation should be undertaken with a clear framework and targets, including the planning and measurable steps and systematically.

2 AGRARIAN CONFLICT IN MESUJI

Hundreds of farmers return land occupied Register 45 Mesuji, Lampung, on Sunday, December 18, 2011. Beginning of September 2011, the area was evicted by an integrated team consisting of police officers Lampung, Forest Service, and civilian security forces that shaped the state company PT Silva, which is the cause dispute between the state company PT Silva with hundreds of local farmers. According to the farmers, they do the occupation that is because they do not have another search. Therefore, they are fighting for the land which they still are the property of their rightful. The disputed land extent of 3,600 hectares. The number of farmers who occupied the area previously numbered 800 people and about 300 people are involved in these occupations. The farmers occupying the land because it has received permission from Mr. Megou indigenous stakeholders who claimed the land as customary land.

Once evicted by PT Silva early September 2011, hundreds of farmers fled to the village of Tugu Roda, District Simpang Causeway, Mesuji district, Lampung. In the refugee camps they take any job to survive. Meanwhile, when the eviction, many their homes bulldozed to the ground next to no little property lost. Commission III team found evidence that this case is caused by the State Land Agency (BPN) and PBN Tulang Bawang reGENCY of Lampung province refused resize 7 thousand acres of land managed by farmers. According to Police Chief Tulang Bawang, that in fact the police have asked for BPN to perform repeated measurements but are not willing BPN because it does not get permission from BPN Center and could not be measured because the area is very spacious.

Against this situation, Commission III BPN expressly requested to immediately start measurement. There is a suspicion that the BPN have been affected by the company to refrain from repeated measurements in which the company benefited thereby. It has been argued from the legislature's proposal that a working committee be formed to investigate this case thoroughly below identifies the parties responsible. Parties such as the Minister of Forestry, Lampung Governor and Head of BPN and central regions will be called. While lawmakers are committed to resolve the matter Mesuji from upstream because it is believed that the violence in Mesuji is a result of the problem is contained in the upstream of the agrarian question, including the fact that the Minister of Forestry gave permission expansion to the state company PT Silva to manage land with a larger area ie from the initial 33,000 hectares to 42,000 hectares in 1996 ago. The expansion led to the takeover of indigenous land previously managed by farmers. In addition, efforts will be made to find those who cause problems Mesuji drawn- up for decades without resolution. When it was concluded, the House will then make recommendations to the government official.

Lampung indeed save a lot of history of conflict between citizens and companies. Data from the police office mention that there are many large companies are in conflict with the local community in addition to the state company PT Silva, as the South West PT Makmur Invesindo, PT Aruna Wijaya Sakti, and PT Indo Lampung.

3 OPTIMIZATION FOR CONFLICT MEDIATION MESUJI

To resolve conflicts with companies such cases citizens Register 45 Mesuji, Lampung, mediation is believed to be a comprehensive solution and is able to overcome the problem with the principle of wins solution. As known, mediation as a dispute resolution models, provide a unique offer of settlement, because the process is relatively simple and requires a relatively short time. In addition, costs can be reduced. Mediation also be a prospective alternative because honestly it must be recognized that public confidence in the judiciary was at a very low point so that the process of litigation (court) is only taken when other means before or outside of court to no avail. Mediation is a method of intervention that involves the participation of the parties in a pro - active so therefore the success of mediation is determined by the good faith of the parties to work together to find a way out as agreed.

Aria S. Hutagalung (2005) says that mediation gives the parties a feeling of equality. Efforts to determine the final outcome of negotiations in mediation is achieved by mutual agreement without pressure and coercion so that the resulting solution is a wins solution. These results will be obtained when met several factors such as the objective approach to resources dispute. It would be more acceptable to the parties and able to deliver mutually beneficial results for these approaches are focused on the interests of a source of conflict. Each party to the mediation must also have the ability to negotiate a balanced and discussion. If this is not met, there will be pressure from one party to the other party.

In the context of a comprehensive settlement to the land dispute between citizens Register 45 Mesuji, Lampung, with the state company PT Silva, mediation must be conducted in compliance with the following requirements:

1. Mediator must form a team (team of mediators), not the individual, because the dispute involves citizens in abundance and large companies.
2. Teams also must have the capacity and integrity to earn the trust of the public to be a facilitator for the resolution of problems that they face.
3. Mediation Team truly must master the problem comprehensively and objectively. Data must be obtained from a source that truly neutral and impartial. Each side could supply information that is not neutral. This must watch out, because without full information, mediation will be in favor of one party to the detriment of the other party.
4. Mediation must be planned, with a clear schedule. This shows the commitment and seriousness of the mediation team at the same time to gain the trust of the public that this effort is intended to give the best results and not just a formality.
5. Mediation wherever possible involve traditional leaders. This is important because traditional leaders are clearly influential figure in the midst of society that is generally a reference for residents in performing actions. In the case of Mesuji, as described in the chronology of the dispute over the land, based on the recognition of the community, they manage the land that later became the dispute after obtaining permission from traditional leaders who claimed the land as customary land. Traditional leaders are also the most interested parties for the completion of a conflict between their citizens and companies.

In carrying out mediation, the mediator needs to understand the various possibilities that may contribute to the occurrence of conflicts and the land conflict. Society may have not understand what they should do, especially related state laws and regulations on land treatment. Perhaps many of them are simply just part of the work on the ground, including in occupied land disputes. One of the stages of mediation should be considered is the maximal approach to farmers so that they view the problem wisely and not be emotional. This becomes important because of the events that occurred in the field in general tend to be detrimental to society both economically, socially, including psychological. The case of the killing of citizens in the conflict, including the burning and demolition of houses which are believed by the public has been made by the state company PT Silva, of course, a factor that could complicate the peace between the two sides . The mediator must be able to provide insight to the public not to make such conditions as a barrier for them to find the best solutions.

The mediator must also be wary of the dominance of the owners of capital who can make them lose independence. Mediator under any circumstances should always be independent and self-sufficient. Because the company is generally considered to have the financial resources are very strong, which is feared to have done certain agreements outside mediation scheme, to win their interests. Against this kind of thing, people are usually very sensitive so it is easy to lead to its impact on public confidence in the mediator or whoever was the dispute resolution facilitator. Although in principle the mediation directed to the welfare of society with a weak economy, the mediator should also consider continuing the corporate activities also benefit the local communities directly and more broadly to the country, with really giving them a thorough understanding of the best solution to the problem this.

Technically, this mediation can be guided by decision of the Head of National Land Agency of the Republic of Indonesia Number 34 Year 2007 on Technical Guidelines for Handling and Settlement of Land Problems of the Implementation Mechanism No. 05/Juknis/DV/2007.

The fact that farmers in Register 45 Mesuji cultivate the land by traditional leaders permission somehow to be considered as one of the realities of the application of customary law in the midst of the local community. This is one of the real side of life and the norms of customary law in the society, where traditional leaders know that indigenous lands could be exploited its citizens, while on the other hand people have a good emotional attachment with their customary elders. What is clear, in the Act No. 5 of 1960 on the Rules Basics Basic Agrarian stated that the national agrarian law based on customary law of the land, which is simple and ensure legal certainty for all Indonesian people, to not ignore the elements that lean on religious law.

Implementation mediation course requires operational funds. In this position, each party can expect the mediator will be impartial to compensate them with a certain amount of funds. The company usually considered to have a stronger position to provide financial resources to influence the process of mediation. Team mediation in this case should be very careful and consistently stay away from all forms of effort to influence through money. This is directly related to the

independence of the mediator team. Mediator team obviously will not be able to remain neutral when it has received certain incentives of one of the parties to the dispute.

Mediators also need to give an explanation to the company did not show the arrogant impression on society. In the atmosphere of dispute as happened in this Mesuji, obviously there is a certain sensitivity among residents of the companies in which the company considered arrogant as usual feel stronger both capital and networks to local government and security forces. Meanwhile, on the other hand, to some extent, people can do desperate because they do not have other options in defending their rights.

It is important to be pursued that the media not to provoke the people or companies or spreading news that could lead to disruption of the process of mediation. The media are supposed to create a conducive atmosphere so that people and companies have a strong desire to solve the problem optimally. Similarly, the community leaders, they must unite searching for the best solution, and do not even exploit the situation for political gain at the expense of the public shortly.

4 CONCLUSION

When land disputes Register 45 Mesuji, Lampung, can be optimally solved by mediation, then the various agrarian conflict that occurred in various regions in Indonesia is also expected to be completed in more comprehensively. Mediation Register 45 Mesuji land dispute with the state company PT Silva then mediation can be an effective prototype models against similar cases in other areas, so that the spirit of the Act No. 5 of 1960 concerning Regulation Basics Basic Agrarian, namely to maximize the function of land for as much as the public welfare can be realized.

Various cases are still occurring in many areas is actually a serious problem in society that they should look for the solution thoroughly. The state should provide maximum support and support for the success of mediation in real agrarian issues will also give effect to strengthen the level of public confidence in the government that are considered truly care about the fate of the citizens.

The next thing to consider is also still needed socialization National Land Law. Although it has been more than half a century old, the Act No. 5 of 1960 concerning Regulation Basics Basic Agrarian still very much unknown to the public, especially as farmers Register 45 Mesuji community that is geographically situated in a location that is far from the touch of education maximum.

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