Unlawful Act on The Lease Agreement 0f The Former State Land of Eigendom Verponding

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Abstract. This study aims to describe the legal status of the former eigendom verponding land which is not converted, in accordance with the conversion regulations and to examine the settlement of civil law acts against the law in the eigendom verponding land dispute in Decision No. 55/Pdt.G/2019/PN Slw. The type of research is library research with a normative legal research approach. The main data source is secondary data. Methods of data collection study of literature and documents. The data analysis method is normative qualitative. The results of this study concluded that the legal status of the former land of Eigendom Verponding No. 822 which was not or had not been registered at the land office until now in Decision No. 55/Pdt.G/2019/PN Slw the status has become State land which is not directly controlled. This has been proven according to law in the sentence in SHM No. 02271, SHM No. 02272, and SHM No. 02270, each of which is in the name of Tjandrayani, is the acquisition of rights not due to inheritance from their parents but the acquisition of these rights as "Giving of Ownership Rights originating from the former State Land of Eigendom Verponding Number: 822 in part". Settlement of the Civil Law of Unlawful Acts in the eigendom verponding land dispute in Decision No. 55/Pdt.G/2019/PN Slw stated that the Defendants' lawsuit was declared unacceptable (Niet on Vankelijke Verklaard). This is because the position of the Plaintiffs has been proven if the Plaintiffs do not have legal standing on the object of the case.

Keywords: Unlawful Acts, Land, and Eigendom Verponding

1. Introduction

The land is a very basic human need as a source of life for living things, whether humans, animals, or plants. Man lives and lives on the ground and uses the land as a source of life by growing plants that produce food. Land as a gift from God Almighty is a natural resource that is indispensable for humans to meet their needs, both directly for life such as farming or housing, as well as for carrying out business, such as for trade, industry, agriculture, plantations, education, construction of facilities. and other infrastructure.

The land has a very large and important role in human life so there is a need for legal protection from the state for the control of land rights. This is regulated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) which states that "Earth, water and natural resources contained therein shall be controlled by the state and used for the greatest prosperity." people", which is then described in Article 2 Paragraph (2) of Law Number 5 of 1960

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concerning Basic Regulations on Agrarian Principles, better known as the Basic Agrarian Law, which was later abbreviated as UUPA, explaining that the Indonesian nation is the holder of rights and bearers of the mandate at the highest level is authorized to the State of the Republic of Indonesia as an organization of power for all the people. The UUPA was born as an era of reform in the field of land law in Indonesia so that it affects all regulations covering agrarian matters, especially land which is regulated with the aim of guaranteeing the rights of all parties and guaranteeing legal protection for related legal subjects.

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia as the basis for the Constitution of the State of Indonesia that the state has the right to control the land. The authority in the land sector is carried out by the National Land Agency. The service in the land sector is a mandatory affair under the authority of the Provincial/Regency/Municipal Government which is delegated to the Regional Government, in fact it creates new problems, namely regarding the form of institutions, division of tasks, working procedures and services in the land sector so that the Basic Agrarian Law can be implemented in its entirety and in line. with the law. This condition was then used by individuals to take advantage of the legal vacuum so that there was an increase in a number of land disputes. Disputes related to land always take place continuously, because everyone has an interest related to land. This is what makes land disputes a classic problem, and always exists everywhere on earth.

The emergence of legal disputes stems from complaints from a party (person/entity) containing objections and claims for land rights, both on land status, priority, and ownership in the hope of obtaining an administrative settlement in accordance with applicable regulations. All land rights initially stem from state control rights over land, which can be granted to individuals, whether Indonesian citizens or foreign nationals, a group of people working together, and private legal entities or public legal entities. In every land law there are arrangements regarding various types of land tenure rights. The hierarchy or levels of land tenure rights in the Basic Agrarian Law and the National Land Law are:

1. The rights of the Indonesian people to land;
2. The State's right to control over the land;
3. ulayat rights of indigenous peoples;
4. Individual rights to land, including :

a. Land rights;
b. Ownership land waqf;
c. Mortgage right;
d. Ownership of Flat Units.

Civil disputes relating to land can occur between individuals and legal entities. The disputed lands are diverse, both regarding the physical data of the land, the juridical data, or due to legal actions taken on the land. One of them is individual rights to land in this case, namely Eigendom Verponding. According to Article 57 BW, eigendom rights or western property rights are the right to enjoy, before the enactment of Law Number 5 of 1960, special property rights were applied which are subject to western law, the wording is more often in Dutch which means eigendom or property rights.

Eigendom Verponding is an ownership right to a land or building asset by way of the imposition of tax collection on the land. The imposition of this tax was carried out by issuing a tax imposition letter on behalf of the land owner, which at that time was known among the people by

the names: petuk tax, pipil, girik and others. Tax receipts function as a letter of imposition and a sign of tax payment, on the basis of payment of such taxes, tax receipts at that time among the people were considered and treated as proof of ownership of the land in question. Imposition and receipt of payments The tax by the government is also interpreted by the people as an acknowledgment of ownership of the plot of land.

In relation to the attitudes and assumptions above, people do not feel safe, as long as the land tax certificate they have purchased has not been replaced with a new title in their name. With the enactment of the Basic Agrarian Law, starting on September 24, 1960, there were no longer western land rights and customary land rights. The institution no longer exists, while the existing rights have been converted by the Basic Agrarian Law into new rights. In connection with that, starting in 1961 there was no longer any land which according to its provisions could be subject to European Verponding, Indonesian Verponding and Lanrente or Land Tax. Tax guidelines that existed and were held by the people at that time and were not reported for the replacement of new rights under the Basic Agrarian Law, of course, were still in the form of Eigendom Verponding.

All ex-western land rights converted according to the provisions of the UUPA will expire no later than September 24, 1980. The land is declared as land controlled directly by the State if after the conversion period ends, the owner or heirs do not convert their land. There are no more rights to land that were converted to western rights in Indonesia after the conversion period ends. However, in reality, there are still holders of land rights who after September 24, 1980 still have proof of ownership of land rights in the form of western rights and customary rights which have not been converted, which of course will cause legal problems. One of the Eigendom Verponding land disputes occurred in the Civil case in Decision Number 55/Pdt.G/2019/PN Slw.

The Plaintiff in his lawsuit stated that the Plaintiff is the rightful owner of the land of Eigendom Verponding Rights No. 822 with an area of 2,126 m2 under the name of Tjoa Tjeng Sioe, a PART of the land of Eigendom Verponding No. 822 has been issued Certificate of Ownership No.02271 Area of 820 m2, No.02270 Area of 152 m2, No.02272 Area of 176 m2, the three certificates of ownership rights on behalf of Tjandrayani, in the certificate it is written/recorded "Giving of Ownership to the former State Land of Eigendom Verponding Number 822, Area of 2126 m2" which is the only heir of Tjoa Tjeng Sioe who was still alive at that time. In accordance with the Indonesian government regulation No. 24 of 1997 concerning land registration and regulations on land or other land rights. Furthermore, part of the land of Eigendom Verponding No. 822 covering an area of 978 m2 has not been certified until the lawsuit is filed, the object of the dispute is controlled by the Defendants without rights or against Law by the Defendants which since September 2015 the Defendants have not paid the rent but are still occupying the object of the dispute. The actions carried out by the Defendants are against the law as stated in Article 1365 of the Civil Code and Article 1366 of the Civil Code, where the Defendants have refused to pay the rent since September 2015 and the Plaintiffs do not want to rent out anymore but the Defendants still occupy the Object of the Dispute .

Against this lawsuit, the Defendants denied or objected to the lawsuit which explicitly stated in their exception that the basic reason for the existence of Eigendom Verponding Number 822 was to be a perfect acknowledgment evidence if the matter being questioned in the a quo lawsuit was not the property of Tjandrayani (the late) and/or the Plaintiff, because according to the law on eigendom lands whose conversion has not been registered until the end of September 24, 1980, it is in accordance with the legal provisions contained in Law Number 5 of 1960 concerning Basic

Agrarian Regulations , Article 1 Decree of the President of the Republic of Indonesia Number 32 of 1979 concerning Policy Principles in the Framework of Granting New Rights to Land of Origin Conversion of Western Rights and Article 1 of Regulation of the Minister of Home Affairs Number 3 of 1979 concerning Provisions concerning Applications for Granting of New Rights to Land of Origin Conversion of Western Rights is land that is directly controlled by the state (free state land), as also stated and confirmed in the provisions of Article 27 of Law Number 5 of 1960 concerning Basic Agrarian Regulations, property rights are abolished if one of the reasons is "the land falls to the state". Therefore, with the above legal reasons, it is sufficient to prove that Tjoa Tjeng Sioe (who according to him is Tjandrayani's grandfather) according to law no longer has rights to the land, let alone other people including the Plaintiff who claims to be the owner or heir.

The conversion of eigendom rights to land owned by Indonesian citizens of foreign descent into property rights is, in fact, still controversial today. The cases brought to court are generally in the field of breach of contract and acts against the law. To find out what is meant by "acts against" law" (onrechtmatige daad), Article 1365 of the Civil Code stipulates as follows that every act that causes harm to another person obliges the person who is guilty of causing the loss to compensate for the loss.

One example of an unlawful act is occupying land and buildings illegally without the permission of the owner which causes disputes such as what happened in the civil case of land dispute of the former Eigendom Verponding No. 822. The unlawful act in question is that the Defendants have refused to pay the rent since September 2015 and the Plaintiffs no longer want to rent out, but the Defendants still occupy the object of the dispute.

2. Method

This type of research is library research. Library research is research that is carried out through library data collection or research carried out to solve a problem which basically relies on a critical and in-depth study of relevant library materials. This research includes library research because data sources can be obtained from libraries or other documents in written form, both from journals, books and other literature.

3. Discussion

National agrarian law was created to provide the greatest benefit to the Indonesian people in general, it is necessary to overhaul colonial agrarian law. In 1960, Law No. 5/1960 was promulgated on the Basic Regulations on Agrarian Principles or commonly called the Basic Agrarian Law. The law stipulates that lands that were ex-western rights must be converted into new rights in accordance with the conversion provisions regulated in the Basic Agrarian Law. The implementing regulations, namely the Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of Several Provisions of the Basic Agrarian Law, among others regarding the rules for granting new rights to land from which conversion of western rights were issued, were issued to implement the provisions for the conversion of the lands that were ex-Western Rights. Eigendom rights are one of the types of Western rights in addition to Opstal Rights or Recht van Opstal (RvO) and Erfpacht Rights which, based on this provision, are converted into Ownership Rights and Use Rights.

For rights holders or Indonesian citizens who on September 24, 1960 were single citizens, the conversion according to the Regulation of the Minister of Agrarian Affairs No. 2 of 1960, namely within 6 (six) months from that date, the Head of the Land Registration Office (KKPT) must come to give confirmation regarding his citizenship, then by KKPT it is recorded in the original deed as converted into Hak Milik, with a maximum period of 20 years, namely until September 24, 1980. As for the Eigendom Right which after a period of 6 (six) months the owner does not come to the KKPT, or whose owner cannot prove that the person concerned is a single Indonesian citizen, then the KKPT shall record it in the original deed as converted into Hak Guna Bangunan, with a period of 20 years until September 24, 1980.

Religious bodies and social organizations that have eigendom rights over land used for purposes directly related to businesses in the religious and social fields, within a period of 6 (six) months from September 24, 1960 are required to submit an application to the Minister. Agrarian through the Head of the Agrarian Supervisor to get affirmation of Eigendom rights can be converted into property rights on the basis of the provisions in Article 49 of the BAL. If before September 24, 1960, the party who does not meet the requirements legally has relinquished his joint rights to another party, then even if it has not been properly registered, the Eigendom Rights will be converted into property rights. This also applies if the Eigendom Right is an undivided inheritance and has not been properly transferred, and if the heir whose name is still registered as the owner is someone who does not meet the requirements to have ownership rights.

Before the term of the Eigendom Rights expires, i.e. forever until September 24, 1980, the right holder must register the rights to the land from which the former Western Rights were converted to the KKPT. With the registration of the rights in question, new rights arise in accordance with the rights regulated in the provisions of the UUPA. The term of the land rights from which the Western Rights were converted will expire for the remaining term of the Eigendom Right, but for a maximum of 20 years, namely until September 24, 1980. If the right in question is not registered until the expiration of the validity period of the right, then from that time the land turned into state land.

The definition of state land in general explanation II paragraph (2) of the UUPA, it is emphasized that it is not fully controlled but is land controlled directly by the state, meaning that the state is not constructed as the owner of the land, but the state as an organization of power from all the people (the nation) acting as the governing body. , which is authorized to:

a. Regulating and administering the designation, use, supply and maintenance;
b. Determine and regulate the rights that can be had on (part of) the earth, water and space;
c. Determine and regulate legal relations between people and legal actions concerning the earth, water, and space.

Based on the provisions of the UUPA that eigendom rights can be converted into property rights and as an implementing regulation, Presidential Decree Number 32 of 1979 concerning Policy Principles is issued in the Framework of Granting New Rights to Land of Origin for Conversion of Western Rights Jo. Regulation of the Minister of Home Affairs Number 3 of 1979 concerning Provisions for Application and Granting of New Rights to Land of Origin for Conversion of Western Rights. The purpose of the issuance of these two regulations is to reaffirm the expiry of the original land rights from the conversion of former Western Rights on September 24, 1980, which is also the principle outlined in the Basic Agrarian Law, with the aim of being able to fully properly ended the validity of the remaining Western land rights in Indonesia.

For owners of eigendom-depending rights who have not registered their land until September 24, 1980, the legal status of the eigendom-depending land is directly controlled by the State. However, according to the author, if the holder of the eigendom depending rights does not register by the said date, with direct control by the State, the holder of the eigendom verponding rights does not automatically lose his rights, but still has the possibility to apply for the rights considering that the person concerned holds evidence of the sale and purchase of land that registered in the village register book. The said application may be in the form of granting new rights by the State and not born through the conversion of old rights, because the time period for carrying out the conversion has expired.

The National Land Law aims to create legal certainty in Indonesia. For this purpose, the government is followed up with the provision of written legal instruments in the form of other regulations in the field of national land law that support legal certainty and furthermore, through existing regulatory instruments, law enforcement is carried out in the form of effective land registration. Article 9 Government Regulation no. 24 of 1997 concerning Land Registration, which can be the object of land registration:

a. parcels of land which are owned with ownership rights, usufructuary rights, building use rights and usufructuary rights;
b. management rights land;
c. waqf land;
d. ownership rights to the apartment unit;
e. mortgage right;
f. state land;

In fact, in the community there are still Eigendom Rights, Opstal Rights, Erfpacht Rights, as well as the rights of indigenous people who are subject to Customary Law that do not have written evidence, owned by local residents who are often called customary lands. Based on the provisions of Article 9, it is clear that lands originating from western rights cannot be registered. If these lands cannot be registered, it will be detrimental to the land owners, because they will certainly lose their rights. Therefore we need a way so that the land can be registered, the way that can be done is by converting the land originating from the western rights. With the conversion of land from western rights, it is hoped that the community will not be harmed by their rights because after they are converted, the rights will be registered.

The conversion of former land rights is one of the instruments to fulfill the principle of legal unification through Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles which was followed up by Regulation of the Minister of Land and Agrarian Affairs (PMPA) Number 2 of 1962 which stipulates provisions concerning the affirmation of the normative conversion and registration of former Indonesian rights to land. The conversion regulation is an implementation of the transitional provisions of Law Number 5 of 1960. The purpose of registering land conversions is solely to provide legal certainty and legal protection to holders of land rights in the form of providing a Certificate of Rights (certificate) which is valid as a means of proof. the strong one.

Article 19 of the UUPA stipulates that in order to guarantee legal certainty, the government is obliged to carry out land registration throughout the territory of Indonesia. Legally, land registration is the basis for the status/ownership of land for individuals or legal entities as holders of legal rights. The conversion regulation stipulates that land that is not converted in accordance with the conversion regulations until the expiration of the conversion validity period then the land has changed ownership to State land, but it is still possible to apply for a new right to register the land-based on proof of ownership issued by local officials. Land registration is very important because it is a recht cadaster which aims to provide certainty of rights, namely to enable people who own land to easily prove that they are entitled to a plot of land, what rights they have, the location and area of the land. As well as allowing anyone to know things that he knows regarding a plot of land, for example, prospective buyers, potential creditors, and so on.

With regard to the implementation of the conversion of land rights, especially those originating from western rights as regulated in the Basic Agrarian Law, land registration is the basis for the implementation of the conversion, because conversion is not an automatic transfer of rights, but must be applied for and registered with the Head of the Land Registration Office (BPN). If you look at the conversion provisions, it is clear that in principle land rights as long as the holder of the rights at the time the conversion provisions apply is a single Indonesian citizen, the rights will be converted into property rights according to the UUPA. The consequence of the enactment of the conversion provisions (UUPA) requires that all evidence of ownership prior to the enactment of the UUPA must be changed to the status of land rights according to the conversion provisions stipulated in the BAL. The way to change the status of the land rights is by registering the land to be given a new proof of ownership, namely a certificate of land rights, provided that this is done before the stipulated period, which is until September 24, 1980, if the application or registration of land rights is not carried out. the land rights will be directly controlled by the state.

How to register land to change the status of land rights can be divided into 2 (two) ways, namely:

a. If the applicant has proof of land rights recognized under Articles 23 and 24 of Government Regulation Number 24 of 1997, then the k process can be taken direct conversion, namely by submitting an application and submitting proof of ownership of land rights to the Land Office.
b. If the applicant does not have or loses proof of ownership of land rights, then the method taken is through Confirmation of Conversion or through Recognition of Rights.

Confirmation of conversion is carried out if there is a statement of land ownership from the applicant and corroborated by witness statements regarding the ownership of the land, but it also depends on the length of physical possession of the land by the applicant. Recognition of rights is highly dependent on the length of physical possession, namely for 20 years as stated in Article 24 paragraph (2) of Government Regulation number 24 of 1997. The requirements for recognizing these rights can be detailed as follows:

a. That the applicant has controlled the land for 20 years or more in a row or from another party who has mastered it.

b. The mastery has been carried out in good faith.

c. The ownership of the land has never been contested and is recognized and justified by the community in the sub-district or the place where the object of the right is.

d. That the land is now not in dispute.

e. That if the statement contains things that are not in accordance with reality, the applicant can be prosecuted criminally or civilly before the court for providing false information.

Confirmation of conversion, recognition of rights and granting of rights are regulated in Article 56 of the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997, which are as follows:

a. Based on the official report on the legalization of physical data, juridical data as referred to in Article 64 paragraph (1), the following activities are carried out :

1) The right to a plot of land whose written evidence is complete as referred to in Article 60 paragraph (2) and whose written evidence is incomplete but there are witness statements and statements in question as referred to in Article 60 paragraph (3) by the Chairperson of the Adjudication Committee confirming the conversion become property rights on behalf of the last right holder.

2) Land rights for which there is no proof of ownership but the fact of physical control for 20 years as referred to in Article 61 has been proven by the Head of Adjudication is recognized as property rights. For the recognition of rights as referred to in paragraph (1) letter b, it is not necessary to issue a decree on the recognition of rights.

Meanwhile, the conversion can be carried out accompanied by the following documents:

a. Application letter to the Head of the Land Office.
b. Proof of land ownership/control; in the form of evidence such as girik/letter c, pipit, Indonesian verbonding (if owned). Also done with other evidence :
c. Original documents of sale and purchase, exchange, grant or deed of inheritance.
d. A statement from the applicant for the control of the land, that the land is not in dispute.
e. Photocopy of the applicant's valid ID card.
f. Family card.
g. Letter of proof of payment of the latest PBB SPPT.
h. Certificate of citizenship of the Republic of Indonesia and or a statement of Change of Name (if a descendant).
i. Letter of measurement/drawing of the situation (if it already exists and can still be used).

Implementation of the provisions of Government Regulation no. 24 of 1997 concerning Land Registration in a consistent, good and correct manner, there will be legal certainty regarding land rights of eigendom verponding, which guarantees legal protection for holders of land rights of the former eigendom verponding. Eigendom rights or in full called "eigendom recht" or "right of property" can be translated as "property rights", regulated in book II BW (burgerlijke wetboek) or the Civil Code (Book of Civil Law). This eigendom right is constructed as the highest land ownership right among other ownership rights. Eigendom rights are the fullest and highest civil ownership rights to land that can be owned by a person. Complete because the control of land rights can last forever, can be passed on or bequeathed to children and grandchildren. The highest is because land rights are not limited in time, unlike other types of land rights, such as erfpacht rights (business) or opstal rights (buildings) (see article 570 BW).

In 1960 all types of land rights, including eigendom rights, were not removed but changed or converted by "conversion", "conversie" into certain types of land rights, with certain conditions that must be met. For example, eigendom rights become property rights, erfpacht rights become cultivation rights, opstal rights become building rights. In 1980 the converted western (used) land rights which had a period of time and which did not meet the requirements were nullified, and the land was controlled by the State "state land". For them, former holders of land rights are given the opportunity to be able to apply for land rights to their former rights as long as they are not used for the public interest or if they are not occupied by the community in general. Eigendom rights previously regulated by western civil law or BW (Burgelijke van Wetboek) including here customary land rights, since the enactment of the Basic Agrarian Law, are amended or adapted to this law. Conversion because of the new law will occur if it fulfills certain requirements and is carried out with a legal action in the form of a decision from the competent authority in the form of a statement confirming this affirmation statement for the legal status of land rights and their types and the fulfillment of the requirements for the rights holders. For example, eigendom rights are converted into property rights.

This means that the requirements for the conversion of eigendom into property rights because the requirements of the subject and object are met. There are several possibilities that occur in the conversion of eigendom rights related to the legal relationship between the subject and the legal object which results in a change in the legal status of land rights:

j. Eigendom rights are converted according to law into property rights, if the subject of the rights holder is an Indonesian citizen;
k. Eigendom rights will be converted into building use rights if the right holder does not meet the requirements to be able to obtain ownership rights, the eigendom rights will be converted into building use rights or other rights;
l. Eigendom rights become land controlled by the state if the rights holders within a certain period of time do not register their conversion rights to the authorized official.

The basic principle that must be adhered to by eigendom rights holders since September 24, 1960 (the enactment of Law No. 5 of 1960) is that the law must register their conversion rights, this is a statutory order contained in Article I of the conversion provisions of the UUPA. If it fulfills the requirements determined by law (Article 21 of the Basic Agrarian Law), then based on the provisions of the conversion as regulated in Article I, the conversion of the UUPA from that point onwards becomes property rights, unless the owner does not meet the requirements. The conditions that must be met for former eigendom rights holders who want to be converted into property rights (according to the Basic Agrarian Law) are that legally on September 24, 1960, they have the status of Indonesian citizens and have proof of ownership in the form of an original deed or a copy of the eigendom according to the Regulations. Minister of Agrarian No. 2 of 1960. The land area does not exceed the maximum limit and or is not absent (gontai) (Law No. 56 of 1960 in conjunction with PP No. 24 of 1961). Furthermore, the registration period does not exceed the specified time limit, which is 1 year from 24 September 1960.

If these conditions are met, the administrative authority authorized in this case the Head of the Land Registration Office (KKPT) at that time (current local BPN) will record/register the confirmation of the conversion of the eigendom rights in the land book and a certificate of ownership will be issued on behalf of the former holder. the eigendom rights. The procedure for the recording mechanism for the confirmation of this registration conversion is regulated in more detail in

Government Regulation no. 10 of 1961 which was subsequently amended and replaced by PP No. 24 of 1997, while the implementing regulations are regulated in PMNA (Regulation of the Minister of State for Agrarian Affairs)/KBPN (Head of the National Land Agency) No. 3 of 1997.

On the other hand, if these requirements are not met, then the eigendom rights are by law changed (conversion) into building use rights which last for 20 years. After that, the right is abolished. while the legal status of the land changed to land directly controlled by the state or commonly referred to as state land (see Presidential Decree (Presidential Decree) No. 32 of 1979). In such a position the legal relationship between the owner and the land is severed. However, the former rights holders still have civil relations with other objects on them, such as plants and buildings standing on the land.

According to Article 1365 of the Civil Code, what is meant by an unlawful act is an unlawful act committed by a person who because of his fault has caused harm to another person. In a narrow sense, an act against the law is defined as a person who violates another person or has acted contrary to a legal obligation. Doing or not doing that is a violation of the rights of others, or it is contrary to the legal obligations of the person who acts or is contrary to decency or against propriety that should exist in public traffic against other people's self or objects.

The case case in the Decision Number 55/Pdt.G/2019/PN Slw related to the discussion of unlawful acts on the lease agreement of the former state land eigendom verponding. The source of the agreement is regulated in Article 1339 of the Civil Code, which consists of the agreement itself, propriety, custom, and law. This means that if there are parties who make an agreement and then something is not regulated and then it is already regulated by law, then that is the source of the agreement.

The lease agreement does not have to be in formal written form because the source of the engagement is an agreement, so the agreement does not have to be in written form (Vide: Article 1320 of the Civil Code). Receipt is proof of payment, but if it is stated in the receipt for leasing, it means showing the object of the lease agreement as stated in the receipt. In the case of a lease, while the party who rents out no longer wants to rent out the object being leased and even the lessee has not paid the rent, then if the lessee does not want to leave the object of the lease, it can be said to be an unlawful act because he occupies the object of the lease without his basic rights. Article 1365 of the Civil Code because the source of the engagement is an agreement that has ended and when it ends it means that the tenant must leave the object of the lease, but because he does not want to leave the object of the lease and has no right to occupy it because the person who is renting it out no longer wants to rent it out, the tenant can be said to have committed an act. Against the law.

The Renters/Tenants (Defendants) in addition to violating Article 1365 of the Civil Code have also committed unlawful acts as regulated in the Arrest Hoge Raad dated January 31, 1919, the elements of which are violating the rights of others, contrary to their legal obligations, contrary to morality, propriety, and order that can threaten/cause loss of life and property. In the case in Decision Number 55/Pdt.G/2019/PN Slw, the actions committed by the Defendants are considered by the Plaintiffs to be unlawful acts as stated in Article 1365 of the Civil Code and unlawful acts as regulated in Arrest Hoge Raad dated January 31 1919. The Defendants have refused to pay the rent since September 2015 and the Plaintiffs are no longer willing to rent it out while the Defendants continue to insist on occupying the object of the dispute with No Rights. Article 1365 of the Civil Code states that every act that violates the law and brings harm to others, obliges the person who caused the loss to compensate for the loss.

Article 1365 of the Civil Code above stipulates liability resulting from unlawful acts either because of doing (positive = culpa in committendo) or for not doing (passive = culpa in ommittendo). The losses suffered by the Plaintiffs are material and immaterial losses due to the Object of the Dispute which should be controlled and utilized by the Plaintiffs and also the loss of thoughts, energy and costs that must be incurred in connection with the legal process that must be undertaken by the Plaintiffs. Article 1365 of the Civil Code is for people who actually do something, while Article 1366 of the Civil Code is for people who don't. Violations of these two articles have the same legal consequences, namely compensation. The formulation of positive actions in Article 1365 of the Civil Code and negative actions of Article 1366 of the Civil Code only had meaning before the decision of the Dutch Supreme Court on January 31, 1919, because at that time the definition of against the law (onrechtmatig) was still narrow. After the decision of the Dutch Supreme Court, the notion of being against the law has become broader, which includes negative actions. The provisions of Article 1366 of the Civil Code have also been included in the formulation of Article 1365 of the Civil Code.

In accordance with the formulation of Article 1365 of the Civil Code, the people who are considered to have committed acts against the law are the Defendants. The purpose and objective of the Plaintiffs' lawsuit is basically to demand that the actions and/or actions of the Defendants without any legal rights have committed acts against the law. Law that is detrimental to the Plaintiffs' control over the object of the dispute. The control of the object of dispute by the Defendants because so far the Plaintiffs have been the heirs/descendant of Tjoa Tjeng Sioe alias Tjwa Tjeng Sioe, Holder of Eigendom Verponding Rights Number 822 Area: 2126M2 leased the Object of the Dispute to the Defendants as mentioned above and the Plaintiffs as legal heirs and descendants Tjoa Tjeng Sioe alias Tjwa Tjeng Sioe No longer wants to lease land and buildings (object of the dispute) to the Defendants because the Defendants have not paid the rent for the existence of a lease-lease relationship on the object of the dispute to the Plaintiffs since September 2015 and the Defendants until currently refusing to leave the land and buildings (object of the dispute) which are part of the Eigendom Verponding Rights Number 822 Area: 2126 M2 in the name of Tjoa Tjeng Sioe.

Meanwhile, according to Defendants I to VIII have physically controlled and occupied the land and the building a quo. Not because of a lease with the Plaintiffs, but on the contrary, the parents of the Defendants and/or the Defendants are currently considered legally the owners of several parts. each of the Defendants is in control of what has been recorded in their respective SPPT evidence, which according to the Jurisprudence of the Supreme Court in its Decision Number 695-K/Sip/1969 dated 12 August 1970, has affirmed that a person who for many years - years of mastering and living without any disturbance can be considered as the owner of the land, and at least as a party qualified by law to have controlled part of the State Land of the former Eigendom Verponding No. 822 in good faith and obediently paying its legal obligations in terms of routinely pay all tax burdens that arise from actions physically controlled for the 20 years, so that the qualifications of the Plaintiffs who first certify them as property rights with the courage to attach one of the evidences of the statement from the Head of Slawi Wetan in it which seems to explain that they are the same person Not Immediately Then just like that claiming as the other part of the property of the inheritance of his parents and grandfather, but it is proven according to law in the sentence in the certificate of ownership is the acquisition of rights not because of their parents' inheritance but the acquisition of the rights of their parents as "Giving of Ownership Rights originating from the former State Land of Eigendom Verponding Number: 822 in part" so that from this sentence alone it is quite clear that

the Plaintiffs are not parties who are entitled to part of the State Land which until now has been physically controlled by the Defendants for more than 20 years, so that the arguments of the Plaintiffs' posita The plaintiff stated that the Plaintiffs are the legal owners of the Object of the Dispute with a total area of 978M2 which is the remaining land area of Eigendom Verponding Rights Number 822 Area: 2126M2 on behalf of Tjoa Tjeng Sioe which is located in Tegal Regency which is illegally controlled/occupied by the Defendants according to law groundless.

Observing the previous discussion regarding the position of the Plaintiffs themselves, they do not have legal standing on the object of the case. This has been proven according to law in the sentence in SHM No. 02271 Area: 820M2, SHM No. 02272 Area: 152M2, SHM No. 02270 Area: 176M2, each of which is in the name of Tjandrayani, which is the acquisition of rights not due to inheritance from their parents but the acquisition of these rights as "Giving of Ownership Rights originating from State Land of the former Eigendom Verponding Number: 822 in part". Thus, from this sentence alone, it is quite clear that the Plaintiffs are not parties who are entitled to part of the State Land. Thus, because the Defendants have lost their legal standing, the examination is invalid, so the Defendants' claim is declared unacceptable.

4. Conclusion

The legal status of the former land of Eigendom Verponding Number 822 which is not or has not been registered with the land office until now in Decision Number 55/Pdt.G/2019/PN Slw the status has become State land which is not directly controlled. The Plaintiffs do not have legal standing against the object of dispute. This has been proven according to law in the sentence in SHM No. 02271, SHM No. 02272, and SHM No. 02270, each of which is in the name of Tjandrayani, is the acquisition of rights not due to inheritance from their parents but the acquisition of these rights as "Giving of Ownership Rights originating from the former State Land of Eigendom Verponding Number: 822 in part". Thus, from this sentence, it is quite clear that the Plaintiffs are not the parties who are entitled to part of the state land.

Settlement of Civil Law Unlawful Acts in the eigendom verponding land dispute in Decision Number 55/Pdt.G/2019/PN Slw stated that the Defendants' lawsuit was declared unacceptable (Niet on Vankelijke Verklaard). This is because the position of the Plaintiffs has been proven if the Plaintiffs do not have legal standing on the object of the case.

References

[1] Adzini, Danica, Status Hak Atas Tanah Hasil Okupasi Tentara Nasional Indonesia dan Sertipikat Hak Milik Hasil Konversi, Jurist-Diction: Vol. 2 No. 4, Juli 2019:1196-1197.

[2] Parlindungan, A.P, Bunga Rampai Hukum Agraria Serta Landreform, Bandung: Mandar Maju, 1990.

[3] Sarjita, Teknik dan Strategi Penyelesaian Sengketa Konflik, Cetakan kedua, Yogyakarta: Tugujogja Pustaka, 2005.

[4] Soekanto, Soerjono, Pengantar Penelitian Hukum, Jakarta: UI-Press, 2008.

[5] Soimin, Soedharyo, Status Hak Dan Pembebasan Tanah, Jakarta: Sinar Grafika, 2001.
[6] Suradi, Hukum Agraria, Jakarta: Badan Penerbit IBLAM, Jakarta, 2005, hlm. 1.
[7] Syarif, Elza, Menuntaskan Sengketa Tanah melalui Pengadilan Khusus Pertanahan, Jakarta: Gramedia, Jakarta, 2012.
[8] Wahid, Muchtar, Memaknai Kepastian Hukum Hak Milik Atas Tanah, Jakarta: Republika, 2008.