

Legal Counseling On The Mediation Process In Land Dispute Resolution In Serdang Bedagai Regency

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Abstract.

Land disputes are a complex issue that frequently occurs in Serdang Bedagai Regency, rooted in unclear ownership status, overlapping certificates, and improper transfer of rights. These issues not only cause material losses but also trigger social tensions in the community. The problem faced by the community is a lack of understanding of the mediation process as a more effective and efficient alternative dispute resolution compared to litigation. People tend to choose the court route, which is time-consuming, expensive, and can worsen relations between parties. To address these problems, legal counseling activities were conducted in Pematang Kuala Village through a collaboration between the community service team of the Indonesian Community Development University (UPMI), Ismayani and Partners Legal Consultants, and media partner sinarsergai.com. The implementation methods included interactive lectures, group discussions, and presentations of real-life case studies. The material covered the legal basis for mediation based on Law No. 30 of 1999 and Perma No. 1 of 2016, the stages of the mediation process, the role of mediators, and the advantages of mediation over litigation. The results of the activities showed an increase in community understanding of mediation and the establishment of a sustainable referral system. This program is expected to reduce land conflicts through win-win solutions, accelerate the dispute resolution process, and improve social harmony in Serdang Bedagai Regency.

Keywords: Counseling; Land Disputes; Mediation and Community.

I. INTRODUCTION

Land disputes are a common problem in various regions in Indonesia, including Serdang Bedagai Regency. These land conflicts are often rooted in unclear ownership status, overlapping certificates, improper transfer of rights, and differing interpretations of land boundaries. These issues not only cause material losses for the disputing parties but can also trigger social tensions within communities, potentially disrupting harmonious community life. In Serdang Bedagai Regency itself, land disputes often involve inherited land that has not been clearly divided, conflicts between communities and plantation companies, issues of compensation for land acquisition for infrastructure development, and land boundary disputes between neighbors that have persisted for generations. This situation is further exacerbated by the community's limited understanding of proper land administration procedures, resulting in many land transactions being conducted without following applicable legal provisions, ultimately leading to legal problems later on.

Resolving land disputes through litigation or the courts is often time-consuming, expensive, and can worsen relations between the disputing parties. Therefore, mediation, as a form of Alternative Dispute Resolution (ADR), is an appropriate choice for resolving land conflicts. Mediation offers a faster, more affordable resolution process and can maintain good relations between the parties because it involves the role of a neutral mediator in facilitating an agreement. During the mediation process, the disputing parties are given the opportunity to express their opinions and interests openly, allowing for a win-win solution to be found. The people of Serdang Bedagai Regency, particularly those involved in land disputes, still have limited understanding of the mediation process as an alternative dispute resolution. Many are unaware of the procedures, benefits, and advantages of mediation compared to court proceedings. This limited knowledge leads people to prefer litigation, which can be detrimental to all parties.

Furthermore, there is still a widespread perception that dispute resolution can only be achieved through the courts, despite the existence of various more effective and efficient alternative dispute resolution methods, one of which is mediation. Based on these conditions, legal counseling on the mediation process in resolving land disputes is very important to implement. This counseling aims to increase public understanding of mediation as an effective and efficient means of dispute resolution. Through this community service activity, it is hoped that the community will be able to understand the stages in the mediation process, know the rights and obligations of the parties, and have the ability to choose the dispute resolution path that is most appropriate to their circumstances. This legal counseling activity is carried out with an approach that is easily understood by the general public, using simple language, and accompanied by examples of real cases relevant to the conditions in Serdang Bedagai Regency. So it is hoped that the community can gain maximum benefit from this activity and can apply the knowledge gained in everyday life when facing land dispute problems.

II. COMMUNITY SERVICE IMPLEMENTATION METHODS

This community service program began with a preparatory phase involving coordination with the Serdang Bedagai Regency Government and media partner sinarsergai.com. Through discussions and mutual agreement with relevant parties, it was determined that legal counseling activities regarding the mediation process in resolving land disputes would be carried out in Pematang Kuala Village, Serdang Bedagai Regency, with the support of free legal consultation services through the collaboration of online media sinarsergai.com and Ismayani and Partners Legal Consultants. The implementation of the activities followed a series of systematically planned stages, namely:

a. Coordination and Preparation Stage

This activity began with a thorough coordination phase between the community service team from the Indonesian Community Development University (UPMI), legal consultants, and media partner sinarsergai.com to develop an effective implementation strategy. The team coordinated with the Serdang Bedagai Regency Government, the local National Land Agency, village officials, and community leaders to determine the appropriate location and time for implementation. This phase also included the development of easy-to-understand educational materials on the mediation process in resolving land disputes, and the preparation of a team of legal consultants to provide free consultation services.

b. Implementation Stage of Extension

During the implementation phase, the activity opened with remarks from representatives of the Legal Consultant, the UPMI community service team, representatives of sinarsergai.com, and the Serdang Bedagai Regency Government. The team delivered key materials that included an introduction to mediation as an alternative dispute resolution, the legal basis for mediation in resolving land disputes, the stages of the mediation process, the role and function of mediators, and the advantages of mediation over litigation. The materials were delivered using interactive lecture methods, group discussions, and presentations of real case studies that had been handled.

The results of the activities are:

1. This activity can increase public insight and understanding about the mediation process in resolving land disputes as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution in conjunction with Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, especially those related to the stages of mediation, the role of the mediator, the advantages of mediation compared to litigation, the terms of the mediation agreement, and attitudes that must be considered to achieve a dispute resolution that benefits all parties.
2. The establishment of a referral and assistance system for communities facing land disputes through a continuous communication network between the UPMI team and legal consultants to ensure community access to legal assistance and the latest information on land dispute resolution.



Fig 1. Implementation of Extension Activities by the PKM Team in Pematang Kuala Village, Serdang Bedagai

III. COMMUNITY SERVICE IMPLEMENTATION MATERIALS

1. Definition and Legal Basis of Mediation in Land Dispute Resolution

Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution has provided a strong legal basis for dispute resolution through mediation. Article 6 paragraph (1) of the Law states that "Civil disputes or differences of opinion can be resolved by the parties through alternative dispute resolution based on good faith by setting aside litigation in the District Court." Furthermore, Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court also stipulates that mediation is a method of dispute resolution through a negotiation process to obtain an agreement between the parties with the assistance of a mediator. Mediation in land disputes is a process of resolving land disputes carried out by the disputing parties with the assistance of a neutral and impartial mediator to reach an agreement that benefits all parties. The mediation process is different from the courts because it does not result in a decision of win or lose, but rather a mutual agreement built on the wishes and interests of each party.

Another legal basis supporting the implementation of mediation is Government Regulation No. 37 of 1998 concerning the Regulations on the Position of Land Deed Officials, which allows for the resolution of land disputes through peaceful means before being brought to court. Furthermore, Regulation of the Head of the National Land Agency No. 3 of 2011 concerning the Management of Land Case Studies and Handling also regulates the resolution of land disputes through mediation as an alternative. In practice, land mediation can be conducted in or out of court, depending on the agreement of the parties. If conducted outside of court, the parties can choose a certified independent mediator, while if conducted in court, mediation follows the procedures established in the Supreme Court Regulation. Understanding this legal basis is crucial so that the public realizes that mediation is not an informal process without legal force, but rather a procedure recognized and protected by law. The results of mediation agreements have the same legal force as general agreements and can be used as the basis for enforcement if either party violates the agreement.

2. Stages of the Mediation Process and the Roles of the Parties

The mediation process for resolving land disputes involves several stages that must be systematically completed to achieve optimal results. The pre-mediation stage is the initial step in which the parties agree to resolve the dispute through mediation and select a mediator to assist in the process. The mediator can be selected from a list of available mediators in the courtroom or from a certified mediator outside the courtroom, as agreed by the parties. This stage also involves scheduling meetings, determining the mediation location, and preparing the necessary documents. The parties also need to prepare mentally and emotionally to participate in the mediation process with an open mind and good intentions to reach an agreement. The opening stage of mediation is a crucial moment in which the mediator explains the rules of the game and the

objectives of the mediation, ensures all parties understand the process, and agrees to a confidentiality agreement. The mediator will also explain his or her role as a neutral facilitator who does not have the authority to decide who is right or wrong.

It is important for the parties to understand that the mediator is not a judge who will render a verdict, but rather someone who will help them find the best solution together. The presentation stage allows each party to present their side of the dispute without interruption or rebuttal from the other party. During this stage, the mediator ensures that each party fully expresses their feelings, concerns, and perspectives. The interest identification stage is the process of uncovering the true interests behind each party's position, as these interests often differ from the initially stated demands. For example, someone demanding a plot of land may simply need a road to access it, or someone objecting to a share of an inheritance may actually be concerned about their financial future. The mediator uses specific techniques to uncover these hidden interests, such as asking open-ended questions, holding caucus sessions or closed-door meetings with each party, and helping the parties see the situation from the other's perspective. The alternative solution search stage involves the parties working together, with the assistance of a mediator, to explore various possible solutions that accommodate the interests of all parties. Creativity is essential at this stage, as the best solution is often not a simple mathematical division, but rather one that considers the unique needs and interests of each party.

For example, in an inheritance land dispute, the solution could be a division of the land based on the function and location that best suits the needs of each heir, or even joint management with a profit-sharing system. The written agreement development stage is the culmination of the mediation process, where the agreement reached is formalized into a legally binding document that can be enforced by the parties. This agreement must be detailed and clear, covering the rights and obligations of each party, an implementation schedule, monitoring mechanisms, and settlement procedures in the event of future violations. In each of these stages, the parties play an active role in expressing their opinions honestly, listening empathetically, respecting each other's perspectives, and participating constructively in finding the best solution. The parties must also commit to implementing the agreement reached responsibly.

3. The Advantages of Mediation and Land Dispute Prevention Efforts

Mediation offers several advantages over court dispute resolution, making it an increasingly popular option. In terms of time, the mediation process can generally be completed within 30 to 60 days, significantly faster than court proceedings, which can take years, even decades, if appeals are required. This speed is crucial, especially for disputes requiring immediate resolution, such as those hindering development or those that create social tensions. Cost-wise, mediation eliminates the need for expensive legal fees, court administration fees, expert witness fees, and other costs associated with litigation. The total cost of mediation is typically only one-tenth or even one-hundredth of litigation costs, making it accessible to people from all economic backgrounds. Confidentiality is also a key advantage of mediation, as the process and results are not made public like court decisions, thus preserving the reputations and privacy of the parties. This is especially important for disputes involving family or neighbors who must maintain social relationships after the dispute is resolved. Flexibility in finding solutions is another advantage of mediation, as the parties are not bound by rigid legal provisions but can seek creative solutions tailored to their specific needs and circumstances.

In court, judges can only issue decisions based on applicable law, whereas in mediation, the parties can agree on solutions that may not be legally available but are perfectly suited to their needs. The high level of compliance with mediation agreements is also a plus, as agreements are built on mutual desires and a deep understanding of each party's interests, rather than being imposed by a judge's decision. Statistics show that compliance rates with mediation agreements reach 80-90%, significantly higher than compliance rates with court decisions. The ability to maintain good relations between the parties is also a significant advantage, as the mediation process emphasizes constructive communication and mutual respect, in contrast to the often confrontational nature of litigation and the potential for permanent damage to relationships. In addition to understanding the mediation process, communities also need to understand how to prevent land disputes, which is crucial for avoiding future conflicts.

Ensuring complete and valid land ownership documents is a key preventative measure, including land certificates, sales deeds, measurement letters, and other supporting documents. All documents must be authenticated and aligned with data held by the National Land Agency. Registering land with the National Land Agency if you don't already have a certificate is also crucial, as a land certificate provides the strongest legal certainty of land ownership. The land registration process is time-consuming and costly, but the benefits are significant in preventing future disputes. Creating a clear and detailed written agreement in every land transaction is a preventative measure that should not be overlooked, including sales, gifts, exchanges, or leases. The agreement should include the identities of the parties, a clear description of the land, the price or exchange rate, payment method, handover date, and other important clauses. Thoroughly checking the land status before making a transaction is also essential, including checking with the National Land Agency, the village office, and asking neighbors about the land's history. Consulting with a land law expert or notary when facing a complicated transaction or problem is a wise investment, because the cost of legal consultation is much cheaper than the cost of resolving a dispute that has already occurred.

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