

The role of the National Land Agency As a Mediator Settlement Land Disputes (A Study at the National Land Agency Office, Kendari City)

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ABSTRACT

As for the purpose of the study, This is for knowledge. How does the mechanism work? settlement of land disputes through mediation at the Land Office vehicle 2. How does the Kendari National Land Agency (BPN) function as a mediator in land settlement disputes?. The study employs a juridical empirical method, which involves studying not only the positive aspects of law but also its implementation or field practice. The data analysis technique used is descriptive qualitative, namely after the data is collected, then poured into a logical and systematic form description, then analyzed to acquire clarity on the settlement problem, then withdrawn as a conclusion in a deductive way, namely from things that are general going to things that are special. Based on research, obtained results: 1. The way the Land Office handles land disputes through mediation follows the rules set by the Decree of the Head of the National Land Agency of the Republic of Indonesia Number 34 of 2007, which outlines how to deal with land problems, but the outcomes are not as good as they could be. 2. Efforts made by the Land Agency include assisting the parties in understanding each other's views and helping them look for things that are considered important for them. The mediator makes it easier to exchange information and encourages discussion about different interests, perceptions, and interpretations of situations and issues. The mediator helps the parties prioritize issues and emphasize discussion about general goals and interests. The mediator will often meet with the parties in a personal way. As a receptacle for information between the parties, the mediator will have more Lots of information about disputes and issues compared to the parties, and will be capable of determining whether there is a basis for realizing something, an agreement, or adequate technical instruction so that no There is doubt again for the apparatus implementer. For running it.

Keywords: Kendari City, Land Dispute, National Land Agency

I. INTRODUCTION

The concept of the Unitary State of the Republic of Indonesia is a state based on law that is oriented towards general welfare as written in the 1945 Constitution of the Republic of Indonesia. Then no one will let go of the dispute over the law on land, which is a fundamental problem in public, specifically in the field concerning land. In this form of state, the government will enter almost all aspects of people's lives and livelihoods, as well as individuals and communities. Community members always want to maintain their rights, whereas the government must also operate in the interest of implementing welfare for the general society of all inhabitants. To ensure a harmonious public order of life, it is essential to provide protection to organizations that serve the interests of society. These dreams can come true if there are some guidelines, rules, or standards that are adhered to by society. As a basic right, land means a lot as a sign of existence, freedom, and dignity for a person. On the other hand, the state is obliged to give a guarantee of certainty of law to the right to land, although that right is not absolute because it is limited by the interests of other people, society, and the state.

In reality daily problems land and are experienced by all layers of society. Disputed land is an issue that always appears and is always current from time to time, along with increasing population, development, and increasingly expanded access to various parties. Forget land as basic capital in various interests. Land issues are something complicated and sensitive by their very nature because they concern various aspects of life, such as social,

economic, political, and psychological, and so on, so that in the settlement of land problems, one must not only notice the juridical aspect but also various other aspects of life so that the settlement problem does not develop into something that can bother the stability of society. The emergence of various problems about land shows that the use, control, and ownership of land in our country are not yet orderly and directed. There are still many mutually exclusive land overlaps in various interests that are not in accordance with its intended use. Besides that, the facts also show that control and ownership of land are still lame. There is a small group of society that has land wildly and excessively, and there is also a big group of society that only owns land in very limited quantity. Even many are the same, with very little, so that forced life as cultivators. Not infrequently, and not good strange, arising about mastery of land by certain individuals in a certain, unilateral way. Can it be said that disputes in the field of land have receded? No. They even have a trend for increased inside complexity problems and quantity along with dynamics in the field of economics, social issues, and politics.

Complaints about problems Land, in essence, is a questionable phenomenon—in truth, something related to laws about land. This can be in the form of products, land said, history of land acquisition, control, ownership, use and utilization of land, liberation of land, and so on. In short, almost all aspects of land can stick out and become a source of land dispute, such as in the case of wrong land boundaries and wrong inheritance. Therefore land needs There are the settings as well as state institutions that are specially involved and authorized in land or problem handling land. In accordance with Regulation President Number 10 of 2006, strengthened on the formation of the National Land Agency (BPN), which was drafted with notice of sides and aspects, aspirations, and roles, as well as public use, can support general welfare. So that BPN plays a role in helping and serving the public in getting his rights in the field land, as well as in helping the public to find road settlement whenever there is a dispute between the public about his rights in the field land.

Settlement disputes through mediation in the field of land must often be carried out by the National Land Agency apparatus, but within the conversation Not yet known to the public. This is caused by the existence of a narrow understanding about settlement disputes. That alone, the existence of a shortage of belief in the effectiveness of the implementation of decision mediation and concerns will cause confusion and the utilization of existing arbitration institutions.

In progress dispute specifically over land, which is indeed the most complicated dispute in society, seen from his complaint, which is indeed Many variations of the case occur, and there is a need for a three-party system that assists in exploring various alternative dispute settlements, with the hope of achieving a "win-win solution" for the public.

In practice, the solution to land disputes through Alternative Dispute Resolution (ADR), in particular through mediation, shows a trend if the public has a place. Within the formal framework of the National Land Agency (BPN), established by Regulation Number 10 of 2006, the Deputy Field for Assessment and Handling of Land Disputes and Conflicts has been integrated into the BPN organizational structure. And in the technical implementation of BPN, it has published Technical Instructions for Handling and Resolving Land Problems through the Decree of the Head of the BPN RI No. 34 of 2007. Based on such understanding, that settlement dispute through mediation needs to be popularized, especially for settlement dispute land. Because of this, besides its possible utilization, from the task, the main points and functions of the National Land Agency can be covered as a mediator in settlement disputes with this method. Considering that the city community vehicle with a settlement problem through deliberation reached a consensus, hopefully the utilization of institutional mediation can be an impactful and positive alternative for settling land disputes.

II. LITERATURE REVIEW

2.1 Definition of the National Land Agency

The National Land Agency, normally abbreviated and called BPN, is a non-departmental government institution that is under and responsible to the president and led by the head, in accordance with Presidential Decree No. 10 of 2006 concerning the National Land Agency.

In its formation, the National Land Agency has a vision and mission that it carries out in its implementation and administration. The vision of the National Land Agency is to become an institution that is capable of realizing land for the people, as well as justice and sustainability of the social, national, and state systems of the Republic of Indonesia. Meanwhile, the mission is in implementation. The duties of the National Land Agency are:

- (1) Improving people's welfare, creating new sources of prosperity for the people, reducing poverty and income inequality, and consolidating food resilience;
- (2) Improve the order of life together to be more just and dignified in relation to the control, ownership, use, and utilization of land (P4T);
- (3) Manifestation of an order of life harmonious together with overcoming various disputes, conflicts, and all cases of land throughout the homeland and arrangement of device laws and systems for land management so that no disputes, conflicts, or cases are born later on;
- (4) A sustainable system of Indonesian society, nationhood, and statehood will provide future generations with as much access as possible to land, which serves as a source of public welfare.

(5) Strengthening institutional land in accordance with soul, spirit, principles, and rules that are stated in UUPA and the aspirations of the people in general.

2.2 Definition of Mediator and Duties and Functions

The mediator is a neutral party who does not take sides, and their role is to assist the disputing parties in exploring various possible settlement options while also being an expert in the relevant field of dispute. Mediator: According to the Big Indonesian Dictionary, a mediator is an intermediary, liaison, or mediator for the parties to the dispute.

According to Gifford, quoted from the book Nurmaningsih Amriani, mediators function in a negotiation process as follows:

- a. Repair the attitudes of the parties about the negotiation process.
- b. Implanting an attitude realistic to the party who feels the situation or his position threatened or is not comfortable.

In the mediation process, the mediator's role is to act independently as a neutral party. The intended function is as follows:

- a. Repair connection communication between the parties normally. There are barriers, and there are psychological barriers.
- b. Encourage the creation of a conducive atmosphere to start fair negotiations.
- c. In a way, there is no direct education for the parties about the process and substance of ongoing negotiations.
- d. Clarifying the problems and interests of each party.

The mediator has a very important role so that later achieved agreement peace between disputing parties. Gery Goodpaster is quoted by DY Witanto, who said that the mediator also has a number of important roles for doing mediation between others:

- a. Diagnose the conflict problem.
- b. Trying as much as possible, perhaps to create success in the mediation process, the
- c. Assisting the parties in gathering important information
- d. Settlement problem To create choices

2.3 Concept of National Land Law

Preamble to the Constitution The main point of the Agrarian Law (UUPA), the National Land Law, is that it will be built based on law customs in understanding law customs that have been perfected and legal customs that have been cleaned from foreign influence and legal norms and customs that, in reality, are still alive and binding to the public.

Furthermore, considerations show that law customs constitute the main source of development law in land and national law. This matter can be seen from formulation considerations of the main agrarian constitution: communalistic religion that allows mastery of land individually with rights on land that is personal at a time containing togetherness.

Communalistic nature has religious origins from law customs, as one of the characteristics stated in the concept of National Land Law is also shown in Article 1 Paragraph (2) of the Law Main Point Agrarian Law (UUPA), which states that all over earth, water, and space, including the rich nature contained therein within the territory of the Republic of Indonesia as the gift of God Almighty, is earth, water, and space, the Indonesian nation, and is rich and national.

In conception law, customs, nature, religious rights, and customary law Still not yet clear, true, because land norm formulation customary law as land together is a "relic" of grandma's ancestors "or as a "gift" of something with supernatural powers, "but if conception law land is national with existence related to the principle "Belief in the One Almighty God" (the First Principle of Pancasila), then land, which is land together, is the Indonesian nation as a whole, firmly stated as the grace of Almighty God. With this characteristic, religion becomes clear and true. Within the scope of the right of the nation, it also makes it possible for Indonesian citizens to be the party that has the right to land together; each of them masters and uses part of the land together. That is individually with the rights of a personal nature.

Mastering and using land individually means that the land in question may be mastered in an individual way, and there is no need to master it together with other people collectively, but behind the terms/regulations, mastering and using land in a collective way together opens the possibility for it to be allowed. This is arranged in Article 1 4 Paragraph (1), which states that "on the basis of right control from the country as intended in Article 2, there exists a miscellaneous right on the surface of the earth that is called land, which can be given to and owned by legitimate people alone and together with other people and legal entities.

In conception of land law, besides the recognized individual right to land, the nature of personal individual rights is also a recognized element of togetherness in rights to land. Personal characteristics and individual rights refer to the landowner's ability to use the land for their own needs and to support their family, as stated in Article 9, Paragraph (2) of the Agrarian Law (UUPA), which says that every good Indonesian citizen, both men and women, has the same chance to obtain land rights and enjoy its benefits for themselves and their families.

Every good Indonesian citizen, man or woman, has an equal chance to do well on land and gain benefits for himself and his family.

Word formula for getting benefits and results The phrase "Good for Self Alone, and his family" illustrates the personal rights individuals have regarding land under the National Land Law. Therefore, the concept of national land law, rights to individually elemental personal soil, also contains elements of norms of togetherness. Elements of togetherness, that is, community, are in every right on land, because all rights on land are in a way directly or indirectly based on the rights of a nation that is right together.

Rights on direct land are based on rights of the nation called primary rights, including the right to property, the right to use business, the right to use buildings, and the right to use given by the state as the officer of the nation, while rights not directly from the nation are what are called secondary rights, including rights granted by the primary rights holder, such as the right to rent, share results, pawn, and others.

2.4 . Disputes and Conflicts Land

2.4.1. Definition Dispute Land

Dispute is all something that causes difference of opinion; disagreement is a continuation from conflict, whereas conflict alone is a dispute between two parties, but dispute is only buried and not shown, and if dispute is notified to the other party, then it will become dispute. The nature of the problem comes from some dispute in a general way. There are a number of kinds, among others:

- a. The problem concerning priority can be set as the holder of legitimate rights on land with status rights, or on undeveloped land there are his rights;
- b. Rebuttal to something that is a legal basis / evidence acquisition used as a base giving right;
- c. Mistakes/errors in giving rights due to a lack of implementation of regulations or no correct;
- d. Disputes or other issues that contain practical social aspects.

2.4.2 Definition Conflict Land

Conflict, according to understanding law, is a difference of opinion, a disagreement in understanding, or a dispute between two parties about rights and obligations at the same time and under the same circumstances. In general, conflict or dispute is understood as a dispute interpreted with different opinions between two parties about a certain problem at the same time and in the same circumstances. Furthermore, the word "conflict," according to the Popular Scientific Dictionary, is conflict, contention, discord, and discord.

According to the General Dictionary of the Indonesian Language, it is defined as with conflict, or quarrel. Referring to the meaning said, it can be understood that the word "conflict" has a wider understanding because the term conflict is not only used in cases related to land with the civil case process but also related to the process of state administration cases. The term "land" in discussion This can be understood with various meanings, so its use needs given limits to be known in what sense the term is used. In land law designation, the term "land" is used in the legal sense, as something the understanding of which has been given limitation authorized by law (Main Point Agrarian Law (UUPA)). Based on Article 4 of the Law, the main point of the Agrarian Law (UUPA) is stated as follows: "On the basis of the right of control from the State, determine the existence of miscellaneous rights on the surface of the earth that are called land that can be given and owned by people."

Deep soil understanding of geological agronomics interpreted the layer of the surface of the topmost earth that is utilized for plants, called cultivated land, agricultural land, plantation land, and land for building used for establishing buildings.

2.5. Overview of Mediation

Mediation is one of the form settlement disputes held outside court , where disputing parties request or use help from party the third neutral For help finish dispute between they .

Mediation This different with form settlement dispute other alternatives such as negotiation or arbitration , because in mediation This besides present a neutral mediator , in a theory He built on a number of runway philosophical like *confidentiality* , voluntariness , empowerment , *neutrality* , and *unique* solution .

2.5.1 Definition Mediation

In a way etymology (language) and mediation originate from the Latin word media, which means "in the middle," because a person who mediates (mediator) must be in the middle of related people. In terms of terminology (terms), there exist lots of opinions that give different emphasis about mediation. So in a way, short Can depicted that mediation is a resolution process for the conflicting parties to reach a satisfactory resolution through a neutral third party (mediator).

Successful mediation can be influenced by several things, such as the quality of the mediator (training and professionalism), efforts made by both parties, the conflict of the party in question, and trust from the second party towards the mediation process, trust towards the mediator, and trust towards each party. A successful mediator doing his duties will feel very happy. For helping others cope with problems they alone have, he will act neutral, increasing quality in decision-making, have a harmonious method, have ability and attitude, and have integrity in carrying out the mediation process as well as be trustworthy and service-oriented. A mediator/intermediary must:

- a. Focus on the problem, not on other people's mistakes;
- b. Understand and respect every different view;
- c. Have desire to share and feel;
- d. Working the same to finish the problem.

2.5.2 Mediation Model

There are several mediation models that need to be considered. noticed by students and practitioners mediation . Lawrence Boulle, professor of law and associate director of the Dispute Resolution Center, Bond University , said that these models based on the classical model but different in matter the intended goal achieved and how the mediator sees it position and role they . Mention There is four mediation models , namely : *settlement mediation*, *facilitative mediation*, *transformative mediation*, and *evaluative mediation*.

2.6 Principles of Land Dispute Resolution Through Mediation

- a. Mediation nature voluntary
- b. Simple process
- c Mediation process still guard confidentiality dispute between the parties
- d. The mediator is mediate

III. RESEARCH METHOD

3.1. Research Location

Study conducted at the Kendari City Land Agency office with consideration that at the Land Agency office a place for complaints in resolving land disputes that has attracted the public's interest. in addition That writer on duty at the office the so that make it easier writer For obtain data

3.2 Data Types and Sources

Type Research conducted writer nature descriptive . According to Soerjono Soekanto , research descriptive is the intended research For provide accurate data Possible about condition or symptoms others . The meaning of study descriptive is especially For emphasize hypotheses in order to be able to help in strengthen theories new .

In the study This data sources used is :

3.2.1 Primary Data Sources

Primary data sources are data sources in the form of descriptions from related parties in a way direct with the problem being studied that is results interview in the field .

3.2.2 Secondary Data Sources

Secondary data sources is data sources that are No direct give information of a nature support primary data sources . Consisting of on legislation , related books with title .

3.3. Technique Data collection

For collect the required data there are 2 methods that is done :

3.3.1 Study Library Research

In research literature This writer make an effort collection and review various provision books , regulations relevant legislation with topic discussion , then analysis .

From the results analysis the writer make it as supporting materials in settlement dispute land through mediation at the National Land Agency office.

3.3.2 Study Field Research

In research field This writer do interview with mediator officers and with owner right on land .

3.4. Data Analysis

After the research data collected Then analyzed in a way in a way qualitative Then described use answer the two problems that have been raised formulated in thesis This .

3.5 Research Time

Study This need time during more not enough three month that is since month February until until May 2024 with details :

- 1 (one) month used For research in the Library .
- 2 (two) weeks used For Field research .
- 1 ½ (one half a month used For processing data.

IV. RESEARCH RESULTS AND DISCUSSION

4.1 Settlement Mechanism Land Disputes in General Mediation At the Land Office Kendari City

Land Agency (BPN) is institution government in charge For implement and develop administration land . In implementing task said , the solution problem land is one of the function that becomes BPN authority .

From the results of research conducted at the Kendari City Land Office, based on interviews conducted by researchers on April 18, 2024 with Mr. Jusvan Triadi, S.SIT as Head of the Section of Disputes, Conflicts and Land Cases, information and data were obtained that from every dispute, conflict and land case that was entered and registered at the Kendari City Land Office, it was resolved according to the authority of the Kendari City Land Office in handling and resolving a land dispute in Kendari City which includes the sub-districts concerned with complaints about land issues received, the resolution of land disputes itself concerns the handling of land issues by the Kendari City Land Office itself. as well as follow-up handling for problem resolution by other institutions.

Based on complaints regarding land issues submitted to the Kendari City Land Office, the relevant issues are then reviewed by the Conflict, Dispute and Case Section and Sub-section.

Table 1. Case Settlement Data Land Disputes at the National Land Agency of Kendari City from 2020 to 2023

NO	YEAR	NUMBER OF COMPLAINTS	CRETERIA / TYPE OF CASE	AMOUNT MEDIATED
1	2020	25	Overlapping overlap certificate , Dispute ownership , allegations of maladministration , return of limits or measurement repeat .	10
2	2021	18	Plot Boundaries , Ownership , Overlapping overlap Certificate .	9
3	2022	28	Plot Boundaries , Ownership , Overlapping overlap Certificate .	12
4	2023	24	Plot Boundaries , Ownership , Overlapping Overlap .	10

Data source . Section Handling Disputes , Conflicts and Cases Land Office of Kendari City Land Office

The data above show many complaint on problem an land people in Kendari City From the number complaints and those resolved through mediation by the section mediation of the Kendari City Land Office , in part small can achieved agreement , but not yet finalized in a way as a whole by the Kendari City Land Office by the Handling Section Disputes , Conflicts and Cases . Description This obtained and acquired direct from Head of Section Sexy Handling Disputes , Conflicts and Cases Land Office of Kendari City Land Office from the results of an interview with Mr. Jusvan Ttriadi , S.SIT. Dapat seen between amount complaints and resolution through mediation is very far expected results due to No all complaint is concerning about dispute .

Kendari City Land Office has authority For finish problem dispute land rights received and registered . Legal basis the authority of the Kendari City Land Office like case in point listed in a way explicit in Regulation Head of the National Land Agency of the Republic of Indonesia Number 3 of 2006 concerning Organization and Work Procedures of the National Land Agency , and in Regulation Head of the National Land Agency of the Republic of Indonesia Number 4 of 2006 concerning Organization and Work Procedures of the Regional Offices of the National Land Agency and the Land Office . Handling and settlement dispute or conflict land besides can completed through track litigation in a way Judicial matters can also be handled by the Land Office and the National Land Agency of the Republic of Indonesia. This is based on Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 01 of 1999 dated January 29, 1999 concerning Procedures for Handling Land Disputes. Dispute Land . In Article 1 number 2 of the Regulation This mentioned that dispute land is difference opinion about :

1. Validity something right
2. Giving right on land
3. Registration right on land including its transition and publication sign proof his rights between interested parties with agencies within the National Land Agency .

That For handle dispute land submitted to the Office of the Minister of State for Agrarian Affairs / National Land Agency was formed Secretariat Handling Dispute Land and Work Team Processor Dispute Land Affairs chaired by the Director Land Acquisition for Institutions Government in work units Deputy Area of Rights on the National Land Agency's land with a number of members and duties from Secretariat and Working Team (Article 2 of the Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 1 of 1999).

Based on Article 2 of the Regulation Head of the National Land Agency of the Republic of Indonesia Number 4 of 2006 concerning Organization and Work Procedures of the Regional Offices of the National Land Agency and the Land Office that is The Regional Office of the National Land Agency has task carry out part duties and functions of the National Land Agency in the relevant Province . Which is organized and is authority of the Land Office with Article 3, duties and functions the as authority among them is coordination , coaching and implementation survey , measurement and mapping ; rights land and registration land ; arrangement and planning land ; control land and empowerment society ; and assessment and handling disputes and conflicts land

For know case his position the need done research and assessment in a way juridical , physical , and administration . Decision settlement dispute or problem land is results testing from truth fact disputed object . *The output* is something formulation settlement problem based on aspect Correct or wrong , *das Sollen or das Sein*.

In order to settlement problem dispute the For give balanced treatment to the parties given chance in a way transparent For submit his opinion about problem mentioned . In addition to that , in cases certain to they can given freedom For determine Alone formulation settlement the problem . In case This is the National Land Agency only take action continue implementation decision in a way administrative as formulation settlement problems that have been they agree .

Based on authority settlement problem with method mediation That can give influence to decision settlement problem so that beside can realize justice and benefit , as well as in frame certainty and protection law , with thus mediation by the BPN is of a nature authoritative .

Settlement dispute land including through mediation by the National Land Agency is necessary based on with legitimate authorities based on regulation legislation . This is important as the basis of the National Land Agency for

be a mediator in settlement dispute land, therefore land mastered aspect law public and law private, no all dispute land can be completed through institution mediation.

Just a dispute deep land authority fully from holder rights that can be completed through institution mediation. Therefore that's the deal in frame settlement dispute through mediation done restrictions. This intended so that the decision mediation the No violate law as well as can be implemented in a way effective in the field.

In disputes faced by the parties, resolution dispute no always must be conducted in court will but Can be done Alone between them according to base deliberation and consensus, and most importantly is there is a sense of family, because method This No damage connection kinship among them. However if in the deliberation For reach consensus the experience failure, then usually they bring problem the sub-district or to the office land, in matter This head village or Head of Land Office who assisted settlement, in matter This they only play a role as mediator or often called with A mediator. An interview with Mr. Jusvan Triadi (Head of Dispute, Conflict, and Land Case Handling) on April 18, 2024, revealed that the mechanism for resolving land disputes can be seen in the table below.

As for the function from agreement peace, minutes, notary and report the is document written as base consideration head of the National Land Agency for formulate decision settlement the dispute that accepted by the Land Agency National, while realization physique and administration that is change data as consequence from settlement dispute the conducted by the National Land Agency Office Regency /City. Decision mediation must be signed by the parties, mediator and witnesses. Signing should be performed on day and date moment taken decision the in a way simultaneously and no permitted done in a way separate. One of them characteristics from settlement problem with mediation is the verdict is formulated will in a way freely by the parties. They may determine choice settlement the problem because that's the decision settlement problem formulated in form something agreement (*agreement*). Consequence profit and loss arise from decision ter call is risk fully from the parties. Each institution settlement dispute contain profit and their respective shortcomings, because approach the solution used different. The mediation process in frame settlement dispute use approach that provides attention primarily concerned with related interests with issues raised by the parties (*interest based*). This It means that mediation give emphasis on its usefulness for the parties in settlement disputes faced.

With emphasis on the interest, various interests of the parties involved dispute can be accommodated in a way maximum. This will influence on satisfaction the parties concerned on settlement disputes that have been decided so that they in a way voluntary carry out decision settlement dispute mentioned. This is profit substantive from settlement dispute through mediation. Besides that, still there is other benefits that are not nature substantial. In terms of procedural, mediation felt more simple compared to with settlement other disputes for example through institution justice. This is due to the parties No merely "taking refuge" with proofs but also looking for solution problems faced with bring together differences opinion, so that can dug root the real problem. Not No Possible in something a dispute that seems very big, in fact That sourced from very simple problems, for example emergence land boundary disputes between neighbors who seem to such complicated, even though Actually started from feeling offense to one of party just. things like This No Possible found in settlement dispute ahead court Because there decision settlement dispute based on assessment on truth evidence that is often only seen from formal and informal aspects time settlement dispute as well as No truth material Settlement dispute through institution justice need a very long time. This is caused by existence efforts the law provided for parties who do not satisfied to settlement disputes that have been decided. Even the judicial process can be repeated with use institution different courts and in different cases.

Even after the decision has obtained permanent legal force, the implementation of its execution is often not simple. In contrast to through a mediation institution, the parties can express their wishes and will be brought together to find the best solution through negotiations so as to produce a dispute resolution agreement that is acceptable to both parties, and no less important is the cost that must be incurred by the parties in resolving the dispute.

In a way general mediation of course need costs, however No as much as needed for the judicial process. Special mediation in the field land affairs carried out by the BPN are not charged costs. Although from various matter mediation contain Lots superiority, not means No there is weakness. Weakness mediation lies in the "power binding" decision mediation. In pure disputes aspect civil, decision settlement dispute handed over completely on the parties. As there is in Article 1338 paragraph (1) of the Civil Code.

Beside That weakness from decision mediation can also be occurs in the act carry on implementation decision said. Is it decision mediation can forced implementation or No depends on consistency they For in a way voluntary accept or carry out the decision that has been agreed. This is different with decision arbitration, the implementation of which can forced after obtain fiat execution from court. Although thus, in determine the agreement No may violates the prevailing norms. This is intended to be there certainty law and protection law by the State, as has put forward that No all dispute can be completed through institution settlement dispute alternative (mediation).

Based on thinking this, then No all decision mediation can be implemented by the National Land Agency. Only decisions that have been consider aspect legal, physical, and administrative only one can be implemented. Even in a way analogy based on provisions of Article 5 paragraph (1) of Law No. 30 of 1999, disputes that can be resolved completed is dispute about rights according to laws and regulations legislation mastered completely by the parties to the dispute.

Results of the interview dated April 18, 2024 with Mr. Jusvan Triadi, S.SIT. (As Mediator) explained that In a way fundamental a mediator plays a role as a mediator who helps the parties For finish the dispute he is facing. A mediator will also assist the parties For frame existing problems to become problems that need to be addressed faced in a way together. In addition, it is also used produce agreement, at the same time a mediator must assist the disputing parties For formulate various choice settlement the dispute. Of course just choice settlement the dispute must can acceptable and satisfactory second split parties. At least role the main thing that must be done executed a mediator is bring together mutual interests different, in order to achieve point meeting that can made into as base reject solution the problem.

As a mediator, the Kendari City Land Office has role assist the parties in understand each other's views and help look for things that are considered important for they. The mediator makes it easier exchange information, encourage discussion about differences interests, perceptions, interpretations to situations and problems faced by society da n. Mediator assist the parties prioritize problems and emphasize discussion about goals and interests general. Mediator will often meet with the parties in a way personal. As receptacle information between the parties, the mediator will have more Lots information about disputes and issues compared to the parties and will capable determine whether there is basics for realization something agreement. The mediator also provides information new or on the contrary assist the parties in find ways that can be accepted by both split party For finish matter. They can offer neutral assessment from the position of each party. They can also teach the parties How involved in negotiation solution problem in a way effective, assess alternatives and find creative solutions to conflict they, with Thus, a mediator does not only act as mediator mere mere act as organizers and leaders discussion only, but also must assist the parties For designing settlement the dispute, so that can produce agreement together.

In this case, a mediator must also have the ability to gather as much information as possible, which will then be used to develop and propose various resolution options for the disputed issue. The mediator will then assist the parties in analyzing the dispute and its resolution options, ultimately leading to a mutually agreed upon solution.

Furthermore the role of the mediator is to analyze and diagnose something dispute certain and then designing as well as control the process and other interventions with objective guide the parties For reach something consensus healthy. Diagnosis dispute important For assist the parties reach consensus. The important role of the mediator is:

1. conduct a conflict diagnosis;
 2. identification problem as well as interests critical;
 3. prepare an agenda;
 4. streamline and control communication;
 5. teach the parties in the skills process bid bargain;
 6. assist the parties gather information important;
 7. completion problem For create choices;
- dispute diagnosis For make it easier problem solving.

Beside availability of mediators as mediator who tries help finish disputes faced, developments empowerment mediation as solution practical, also caused Because existence social and economic changes that result in changes in the field law. Condition mentioned above is excess from globalization, because globalization, is characteristics connection between world population that transcends conventional boundaries, such as nation and state.

4.2 Efforts that Done Land Agency Office as a mediator in Settlement Land Dispute.

The issuance of Presidential Regulation No. 10 of 2006 concerning land disputes, cases involving disputes in the land sector, particularly those occurring in the Kendari City area, land disputes submitted by the community are caused by the following conditions:

4.2.1 Administration Land in the future Then

Administration land in the past No implemented in a way orderly, that land data recording, especially lands owned by customs has done For needs tax earth. Recording customs land This Actually can used as proof instruction from ownership a plot land. Along with journey time has happen good data changes regarding. Subject and physique the land, but No followed with changes to administrative data. Condition administration land the happen in period a very long time, so with change generations and change social culture in society, can create land disputes.

In areas that have not yet been implemented land data recording, control / ownership land No supported with evidence letter but depend on fact physique mastery and tools proof testimony. Such a thing this will also influential for occurrence dispute land along with change generation, development development and change social culture.

Lack of order administration land can also caused by Because No consistency government in take policies in the field land. As known government has take policies in the field of land for example like for example deletion land private, nationalization company owned by the Netherlands, and so on, but administrative consequences as action carry on policy the not enough get handling so that cause dispute land later day.

4.2.2 Inequality Structure Land Control / Ownership

Land is source prosperity for the Indonesian nation, some of which big structure his life relying on the sector agrarian. Inequality possession / ownership land can become source dispute land caused by existence jealousy get access land For fulfil needs his life. Therefore That in a way proportional must There is justice in distribution resource land. In case This desired must There is balance possession / ownership land by the community in accordance with his profession (Compare with formulation framework reference in "AGRARIAN REFORM"

political, constitutional and legal mandates in realizing "Land for justice and welfare of the people") Besides that, considering limitations supply land that is relatively fixed in comparison with amount population that continues to grow develop so required restrictions possession / ownership land by a family.

That matter intended so that besides there is justice in distribution land also so that the land can endeavored in a way active by the owner, so give optimal benefits as well as give significant contribution for as big as possible prosperity of the people. As for the policy arrangement possession / ownership land especially for land agriculture implemented including with redistribution programs land and transmigration. The lack of justice in redistribution land in a way proportional can push public For do actions oppose law For get land. The method with to break in or occupy land good that has been There is his rights and state land.

4.2.3 Increase request will land

Condition limitations will source Power land face to face with request will land For increasing development increase can also be trigger emergence dispute land.

This matter caused by the difficulty look for land replacement for the people whose land will used For development said. Semenfara That with takeover land the will cause increasing mark land local good caused by lack of supply land and caused by the impacts that arise as consequence activity development intended.

Beside That in connection with improvement request will land, no seldom there is a group of people who deliberately use chance For dredge profit personal with method speculation land. The activities of speculators land This later day can invite dispute land, from condition said, the dispute land originating from from procurement land usually in the form of demands change loss that is not appropriate and use land owned by the community assessed No in accordance with plan back to the beginning as well as development carried out, assessed profitable group certain impacts No or not enough felt by the former owner land.

4.2.4 Abandoned land

In the middle condition possession / ownership land by the community is very minimal even Lots member society that does not have land, then neglect land is something inviting thing injustice and jealousy social. Therefore That in frame fulfil his needs, often such land seized or occupied in a way No legitimate by society.

4.2.5 Demands for Reform

The reforms are still ongoing echoing until moment This back to the beginning rely on to three demands namely: supremacy law, transparency and siding with the interests of the people (*populism*). In its journey, the three demands the develop with No balanced, namely with dominant demands will siding with the interests of the people.

The size domination populism cause emergence a kind of "sacralization" of the term "people for various interests". With other words occur halal all way for or origin For interests of the "people". Therefore That in the current euphoria of reform This domination demands populism has tend put aside demands supremacy law. The problem is every demands based on pretexts For the interests of the people always contain truth.

The problem need straightening Because Now This also shows the modus operandi of certain people who take advantage of this. right moment people's This For objective look for profit personal in a way No responsible answer. Meanwhile That public with easy exploited by these people For support objective parties In the field of land, symptoms the often found, with the pretext of "populist" society is mobilized For prostrate the land without consider aspect truth legal, physical and administration.

Based on results research, prominent constraints In resolving land disputes, efforts need to be made by both parties Land National is readiness source Power man both internal and external external side need done improvement regulation legislation and strengthening authority institutional especially in the area. Source Power man related with understanding of the authorities implementer in mastery outlook regulation related legislation with provision land, perseverance in face task face problems and disputes land For to see right ethos high work as well as development regulation legislation and provide more authority big to apparatus implementers in the region. role as well as public has in a way normative recognized in various policy written and regulations legislation in context management environment life role as well as public is very important thing and therefore get place important in regulation legislation national. The process of arrangement space, analysis about impact environment and licensing open opportunity for role as well as society, so that *Alternative Dispute Resolution* is required For reach a capable agreement reflect interests and needs of the parties involved in taking decision. With thus, it can concluded *Alternative Dispute Resolution* is the most effective and efficient alternative in finish dispute or conflict interests and fulfillment the needs of the disputing parties to sit down together.

In a way general, according to Mr. Saofa (Mediator Team) put forward at least There is 4 (four) factors the main one that provides base necessary development settlement dispute alternative in ya tu

1. Demands public to mechanism settlement efficient and capable dispute resolution fulfill the sense of justice;
2. Efforts to balance increasing Power critical community that is accompanied with demands play a role as well as active in the development process (including taking decision to affairs public). Community rights play a role as well as in determination policy public the cause consequence necessary receptacle or mechanism settlement dispute For accommodate difference opinion (*conflicting opinion*) that emerged from participation public the;
3. Growing climate competition healthy (*peerpressive*) for institution court. Presence institutions settlement dispute alternative and quasi justice (*tribunal*) if its nature optional, then will a selection process occurs which

describes level trust public to institution settlement dispute certain . Presence peer *in* form institution settlement dispute alternative this , it is hoped push institutions settlement dispute the increase image and trust public ;

4. As step alternative stem heavy current case flow to court .

Formulate road go out For end difference interests and fulfillment individual needs become interests and needs together . Formulated way out contains satisfactory resolution second split the party in question dispute . In addition , the way the solution also formulated in a jointly by the parties , OK with or without help party third . If in the settlement disputes between the disputing parties No agreed with held settlement through institution mediation , then disputing parties can finish the problem through other institutions such as institution litigation or institution judiciary .

Based on the description above , then opinion writer have an opinion that problem land has appear in Lots aspect with diverse form . Various effort settlement has offered Good through deliberation or mediation traditional and mediation land that was formed in environment Land Agency Agency National. Settlement method mediation No forever give a satisfying and giving solution a complete solution , while incoming cases to Court Already increasingly piled up , so that need thought about For form Court Land that can be give settlement cases land in a way fast and appropriate with principle justice .

Various settlement dispute land Enough Lots offered good in nature litigation both litigation and non-litigation but in Lots matter the result felt not enough satisfactory . Completion in a way mediation good in nature traditional or through various modern *Alternative Dispute Resolution* (ADR) institutions , even though For one or two cases certain can completed with good , but in most matter No give satisfactory and satisfactory solution complete . Even settlement through even the courts sometimes felt by the community No satisfying . Not a little those who have occupy land during for years rejected his lawsuit For maintain right or get right Because existence other parties who control the land in question . Or vice versa lawsuit somebody to mastery land certain granted court although for the controlling party land No Enough strong or lawsuit not enough reasonable .

Settlement dispute land No forever must carried out through the judicial process . The settlement carried out through deliberation with involving figures public sometimes Enough effective in finish dispute land . Settlement thus can categorized as form settlement through mediation traditional . In addition also known as the solution through office Land from the National Land Agency (BPN). In order to settlement dispute through method This has set Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 01 of 1999 dated January 29, 1999 concerning Procedures for Handling Dispute Land . In Article 1 number 2 of the Regulation This mentioned that dispute land is difference opinion about :

- a. Validity something right ;
- b. Giving right on land ;
- c. Registration right on land including its transition and publication sign proof his rights between interested parties with agencies within the National Land Agency .

Article 2 states that that For handle dispute land submitted to the Office of the Minister of State for Agrarian Affairs / National Land Agency was formed Secretariat Handling Dispute Land and Work Team Processor Dispute Land Affairs chaired by the Director Land Acquisition for Institutions Government in work units Deputy Area of Rights on the National Land Agency's land with a number of members and duties from Secretariat and Working Team intended .

Furthermore, on May 31 2007, the Head of the National Land Agency also issued a Decree which was signed by the Deputy Field Assessment and Handling Disputes and Conflicts Land , Technical Instructions No. 05/JUKNIS/DV /2007 concerning Mechanism Implementation Mediation . Terms This is is description more Far from Regulation Head of the National Land Agency of the Republic of Indonesia No. 3 of 2006 which determines in Article 345 that one of function Deputy Field Assessment and Resolution Disputes and Conflicts Land is implementation alternative settlement problems , disputes and conflicts land through form mediation , facilitation and others .

Instruction technical This made Because besides settlement dispute through court / litigation , in system law national known settlement dispute through external institutions judicial /non- litigation as regulated in Law no. 30 of 1999 concerning Arbitration and Alternatives Settlement Dispute . It is also said that one of the alternative settlement dispute completed through the mediation process which is a resolution process based on principle the expected win - *win solution* give settlement in a way satisfactory and acceptable all party .

Instruction technical This intended as guidelines for mediators appointed by the Land Office , Regional Office of the National Land Agency , National Land Agency of the Republic of Indonesia in handle the mediation process . While objective from instruction technical This is there is uniformity , unity understanding and/ or standardization for the appointed mediator in the mediation process .

In the Technical Guidelines This understanding mediation formulated as an alternative process settlement problem with help party third party (mediator) and procedures agreed upon by the parties in which the mediator facilitates For can achieved something mutually beneficial (peaceful) solutions beneficial to all parties .

In this Technical Instructions it is stated that the Mediator is a person/ official who is appointed the ranks of the National Land Agency of the Republic of Indonesia as agreed by the parties concerned For finish the problem . In another section it is mentioned that mediation carried out by appointed Officials / Employees with letter assignment / letter order from Head of the Land Office , Head of the Regional Office of the National Land Agency , and Head of

the National Land Agency of the Republic of Indonesia. There are three the type of Mediator mentioned in instruction technical This that is :

- a. Network Mediator Social (*Social Network Mediator*)
- b. Mediator as Authoritative Mediator
- c . Independent Mediator

Agreement that is basically containing the options accepted , the terms and obligations of the parties with agreement the in a way substance mediation has finished , meanwhile action carry on implementation become authority State Administrative Officer . Every activity mediation should poured in the Mediation Minutes. Formalization agreement in a way written with use agreement format . To have strength tie the minutes of the meeting signed by the parties and the mediator. Mediation land as mentioned above No involving court as specified in Law no. 30 of 1999.

V. CONCLUSION AND SUGGESTION

5.1 Conclusion

Based on results research and discussion so can concluded as follows that :

1. mechanism settlement problem dispute land through mediation conducted by the Land Office Kendari City. In Kendari City, there has been in accordance with regulations and mechanisms that are regulated in the Decree of the Head of the National Land Agency of the Republic of Indonesia Number 34 of 2007 concerning Technical Instructions for Handling and Resolving Land Problems , but the results of the resolution are not yet optimal
2. The efforts made by the Kendari City Land Agency as a mediator are to help the parties. in understand each other's views and help look for things that are considered important for they . The mediator makes it easier exchange information , encourage discussion about differences interests , perceptions , interpretations to situations and problems and regulate disclosure emotions . The mediator helps the parties prioritize issues and emphasize discussion about goals and interests general . The mediator will often meet with the parties in a way personal . As receptacle information between the parties , the mediator will have more Lots information about disputes and issues compared to the parties and will capable determine whether there is basics for realization something agreement instruction adequate technical so that No There is doubt Again for apparatus implementer For run it .

5.2 Suggestions

As for the suggestions that can be given is :

1. As a mediator, the National Land Agency of course have important role in maximize institution mediation as place settlement dispute ;
2. Act as a Mediator or mediator in settlement problem should can play a role with good and bad take sides party ;
3. Giving counseling to society so that it can carry out mediation with Good .

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