

Enhancing Community Legal Awareness of Land Right Disputes through the Use of Legal Aid Institutions

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Abstract--*This research is about an enhancing community legal awareness of land right disputes through the use of legal aid institutions. This is a qualitative research design which was done at Bolaangmongondow Regency, Kotamabagu North Sulawesi from March - June 2019. The instrument used in this research was the observation sheet and checklist sheet. The method of conducting the research was done through legal counselling activities carried out in Bolaangmongondow Regency, Kotamabagu North Sulawesi aim to increase community legal awareness in understanding disputes over land rights through the use of legal aid institutions to realize community legal awareness. The result of the research is that the implementation of the legal counselling activities had made the community understand the mandate of the law which requires regional heads to become regional judges, who initially did not understand. Through lecturing method, questions and answers, and giving examples, the objectives of this activity are achieved. Then it is concluded that the community legal awareness of land rights disputes in Bolaangmongondow Regency, Kotamabagu North Sulawesi through the use of legal aid institution has been well enhanced.*

Key words--*Community Legal Awareness, Land Right, Disputes, Enhancing*

I. INTRODUCTION

Law is seen as one of the important aspects in society that aims to realize the formation of a comfortable and fair society, sometimes by a handful of people being ignored. Not infrequently the law was injured, violated, and even manipulated its functions by people who do have interests or people who still consider the importance of a law that is in the community. These people are people who are not aware and do not obey the law. The role of public legal awareness as the goal of the law itself is to ensure certainty and justice. In the life of the community, there is always a difference between the patterns of behaviour that apply in society with the patterns of behaviour desired by legal norms [1]. This can lead to a problem in the form of social inequality so that at certain times there tends to be conflict and social tensions that can certainly disrupt the course of changes in society in the desired direction. This situation occurs because the existence of created law is expected to be used as a guide (standard) in acting for the public without legal awareness, so there tends to be no legal observance.

Legal Awareness in the community needs to be nurtured and instilled so that the community will be more compliant with existing laws, both written laws and laws that are indeed growing and developing in the community and their existence is recognized by the community. Legal awareness has several conceptions, one of which is the conception of legal culture [2;3]. This conception contains the teachings of legal awareness more concerned with legal awareness which is considered as a mediator between law and human behaviour, both

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individually and collectively [4;5]. This conception is related to cognitive aspects and feelings which are often regarded as factors that influence the relationship between law and patterns of human behaviour in society. Every community always has primary or basic needs, and community members establish experiences about the factors that support and that may hinder their efforts to meet these primary or basic needs 2. If these factors are consolidated, a system of values is created which includes abstract conceptions or benchmarks about what is considered good and what is considered bad.

The issue of land is a problem that deeply touches justice because of the rare and limited nature of the land, and is the basic need of every human being, it is not always easy to design a land policy that is felt to be fair to all parties [6;7]. A policy that gives greater leeway to a small portion of society can be justified if it is balanced with a similar policy aimed at other larger groups. Recognizing the increasingly widespread activities of the community in various fields and the increasing population and human needs for land causes the position of land which is very important, especially in control, use and ownership [8;9]. Particularly this is the progress of the economic activity, so much land is involved in it, the expansion of that activity generally takes the form of increasing numbers of buying and selling, leasing, inheritance, giving credit and even the emergence of legal relations with foreign legal persons or entities.

On that basis, so that the implementation of the transfer of control of the rights of the state or community over land in Indonesia does not cause various problems or disputes regarding the interests of land, it is necessary to have strict regulations and a strong legal basis in the land sector. Following the characteristics of the provisions above the agrarian problem becomes the task of the central government. The existence of the authority and duties of the government on agrarian matters has the consequence that the central government must formulate policies to develop legal politics in the agrarian sector. The policy in question is the Basic Agrarian Law Number 5 of 1960 which contains an Inventory of lands throughout Indonesia. Regard to the legal awareness of the community, the community should be given an understanding of the importance of the obligation to pay taxes through legal counselling activities. As stated in the Basic Agrarian Law Number 5 of 1960 Article 19 paragraph (1) which reads as follows "To guarantee legal certainty by the government, land registration is carried out in all regions of the Republic of Indonesia according to the provisions regulated by Government Regulation". The Government has issued Government Regulation Number 24 of 1997 concerning Land Registration. The task of registering the transfer of existing rights is now handled by the National Land Agency. One of the objects of rights contained in the community is land, and every individual has the right to own the object of the land (land), so if we talk about the existence of the object of rights, then how do these individuals obtain the object of the land (land)? The rights to land can be obtained by buying and selling. Essentially buying and selling is one way of transferring land rights to the buyer of land from the seller of the land [10;11].

II. LITERATURE REVIEW

Legal awareness is the awareness or values contained in human beings about the existing law or the expected law there. Actually what is emphasized are values about the function of law and not a legal assessment of concrete events in the society concerned. Legal awareness means awareness about what we should do or do or what we should not do or do especially with others [12;13]. This means awareness of our respective legal obligations towards others. Legal awareness is the awareness that exists in every human being about what law is

or what the law should be, a certain category of our mental life with which we distinguish between law and law (onrecht), between what should be done and not done [14]. Legal awareness is an abstract conception in human beings, about harmony between order and order that is desirable or appropriate. Legal awareness is often associated with legal compliance, legal formation, and legal effectiveness. Legal awareness is the awareness/values contained in humans about existing laws or the law expected by the wider community [15;16].

Starting this discussion will be explained the first terminology in legal awareness. Legal awareness in this context means awareness to act following legal provisions. Community legal awareness is a kind of bridge that connects legal regulations with the legal behaviour of community members. Lawrence Friedman prefers to call it part of "legal culture", namely values, attitudes that influence the operation of law [17]. Consciousness comes from the word conscious, which means being converted, feeling, knowing or understanding. To realize means to know, realize, feel. Awareness means conversion, a state of understanding, things that are felt or experienced by someone. Legal awareness can mean the existence of conviction, the condition of someone who understands well what is a law, the function and role of law for himself and the surrounding community [18;19].

Legal awareness is an abstract conception in human beings, about harmony between order and order that is desired or appropriate. Legal awareness is often associated with legal compliance, legal formation, and legal effectiveness. Legal awareness is an awareness of the values found in humans about existing law. Legal awareness is related to legal compliance, the thing that distinguishes it is that in legal compliance there is a fear of sanctions [20;21;22]. Legal awareness is self-awareness without pressure, coercion, or orders from outside to submit to applicable law. With the running of legal awareness in the community, the law does not need to impose sanctions. Sanctions are only imposed on citizens who are proven to have violated the law. The law contains commands and prohibitions. The law tells us which actions are contrary to the law which if done will get a threat in the form of legal sanctions. Against acts that are against the law, of course, are considered to violate the law so that they receive a penalty [23;23].

The public aspect of land control according to the National Land Law is the provision of Article 33 paragraph (3) of the 1945 Constitution which states that the earth, water, and natural resources contained therein are controlled by the state and used to the maximum extent for the prosperity of the people. The provision emphasizes that the legal relationship between the state and the earth, water and natural resources contained in the territory of Indonesia is given the State's Right to Control [24;25]. The contents of the authority to control the state are formally spelt out in article 2 paragraph (2) which states that the state's right to control gives the state authority to a) To regulate and carry out the allotment, use, supply and maintenance of the earth, water and space; b). Determine and regulate legal relations between people and legal actions concerning the earth, water and space.

The explanation of physical control over land is related to the concept contained in the understanding of the legal term of occupation, position, permission and bezit [26;27]. The definition of occupation, possession, permission and license are as follows: a) Occupation-The act or process by which real objects (for example land) are controlled and enjoyed; b) Possession-Controlling (exercising physical control) of an object to own that object and do something about that physical object; c) Permission-Control of real items under a freehold estate claim; and d). Bezit-Bezit is defined as a condition in which a person controls an object, either alone or through another person's intermediary as if the object was his own [28;29;30]. Juridical control is based on

rights, which are protected by law and generally gives authority to physically control the land that is claimed. There is also a control which, although giving authority to control land that is physically insulted, in reality, the physical control is carried out by another party; (1) when the land is leased, the tenant is physically in control of the land; (2) when land is held by another party without rights (occupied) [31;32;33]. Under these conditions, the landowner, under his jurisdiction, has the right to physically reclaim the land concerned; whereas in the case of physical mastery it will return when the tenancy relationship has ended.

Related to the issue of land ownership rights which is one of the problems in Bolaangmongondow Regency, Kotamabagu North Sulawesi from the initial data obtained the influence of lack of legal knowledge about land ownership rights raises a pretty basic problem by the government to be resolved. Legal aid institutions as an institution that has an institutional obligation to provide legal counselling to the community in a regency to create a regency aware of the law. Bolaangmongondow Regency, Kotamabagu North Sulawesi as one of the regencies in North Sulawesi. Bolaangmongondow Regency, Kotamabagu North Sulawesi is certainly an area that must be touched with activities that can increase public legal awareness, especially public awareness about land rights disputes. The Legal Aid Institute do not only gives obligations and responsibilities to individuals who experience legal problems, but this legal aid institution is obliged to realize a law-abiding community, disputes over land rights in the Bolaangmongondow community greatly impacting the stability of the community itself [34;35;36]. Land ownership disputes are not only between individuals in the community but also such problems occur between families.

So important is the legal awareness of the community it will bring a major influence on the stability of people's lives [37;38;39]. The use of legal aid institutions through legal outreach activities to the community was felt to be very helpful to the regency government in realizing a law-aware community, especially regarding disputes over ownership of land rights [40;41;42]. To realize the program to be implemented, the role of the regency government, the Consultative Body is very important, this is based on these institutions as the driving force for the progress of a regency. Regency government is at the forefront of dealing directly with the people who run and oversee government programs in general [43;44;45]. The Regency Consultative Body is a partner of the regency head chosen by the community to represent elements in the community such as youth, religious leaders, and educators.

During the implementation of community service activities, it is expected that the government's problems with the legal awareness of land ownership disputes can be resolved, so indicators can be used to measure success by resolving land rights disputes through the role of the regency government as a regency judge. The success of decreasing dispute resolution can be done by increasing the ability of human resources, improving the quality of outreach, facilities and infrastructure, leadership, coordination and supervision [46;47;48]. On the other hand, the utilization of the Legal Aid Institute is highly expected to help realize the legal awareness of the community, especially the people of Bolaangmongondow Regency, Kotamabagu North Sulawesi. Activities to be carried out in collaboration with the Legal Aid Institute are aimed at increasing public legal awareness of resolving land rights disputes, focusing on the general public and community leaders, youth and the government. This group is considered representative and can make innovations and positive contributions in the regency. Bolaangmongondow Regency is quite potential for this service, in observing the selling value of land which is getting higher and population growth that is increasing and various community

activities and various problems that occur, such activities are very beneficial. The Bolaangmongondow community, whose majority income is farmers, are very vulnerable to land disputes.

III. METHOD

Legal counselling activities carried out in Bolaangmongondow Regency, Kotamabagu North Sulawesi aim to increase community legal awareness in understanding disputes over land rights through the use of legal aid institutions to realize community legal awareness. The output of the program is divided into two, namely Bolaangmongondow Regency, Kotamabagu North Sulawesi as a pilot district for other districts towards community legal awareness, and the formation of fostered groups of Legal Aid Institutions which will later become a place for public complaints. Preparation and debriefing: a) mechanism for carrying out community service activities includes the following stages: 1) coordination with legal aid institutions; 2) consultation with local government; 3) preparation of facilities and infrastructure related to the implementation of activities; 4) designing activity models through legal counselling; 5) delivery of material regarding legal aid laws; 6) understand disputes over land rights on provisioning/simulation sessions; 6) knowledge of the legal aid law and the basic agrarian law, and 7) community legal awareness. The implementation phases of activities take place from March - June 2019. The program carried out is the implementation of the extension program through the utilization of the Legal Aid Institute. Besides, for the program of these activities to have a positive impact on the community, the method of assistance will be carried out. The method used in empowering the target group is the provision of material by way of lectures, discussions and simulations. Operational steps needed to overcome the problem are preventive assistance to increase community legal awareness about the importance of understanding land rights disputes. Community empowerment assistance is carried out during intensive and targeted programs and the objectives of the problems experienced by the community are achieved. The community empowerment program, in particular, facilitates communities who lack understanding about land rights disputes. This program needs professional and capable people in their field so that the sustainability of this program still exists.

IV. RESULT AND DISCUSSION

Referring to the targets and outputs as well as the objectives of the counselling activities, the implementation of the legal counselling activities has made the community understand the mandate of the law which requires regional heads to become regional judges, who initially did not understand to understand, through lecturing method, questions and answers, and giving examples, it is hoped that the objectives of this activity are achieved. As for the results achieved from the implementation of this activity, are as follows: a) the people of Bolaangmongondow Regency, Kotamabagu North Sulawesi, in terms of the legal framework on the issue of land disputes, has increased. With the community's questions during the legal counselling it can be concluded that the community has understood the procedures for resolving land disputes that occur to the community and specifically to the questioner; b) This extension program is not only in the field of legal counselling, but also other activities carried out are the procedures for drafting regional regulations.

The next stage plan as the final form of the implementation of the extension program is expected to be the government can form a complaints post that can help the community in solving any problems, besides to follow up on the activities that have been carried out in the framework of preparing quality local regulations, the next stage is to conduct data collection and coaching intensive to the regional government bodies, regional

apparatuses and the public. Legal counselling material: Land registration definition of land registration is a series of activities carried out by the government on an ongoing, continuous and regular basis, covering the collection, processing, bookkeeping, and presentation and maintenance of physical and juridical data, in the form of maps and lists, concerning plots of land and units of flats, including the granting of proof of rights for plots of land for which there are rights and ownership rights over the units of flats and certain rights which burden them.

The purpose of land registration: a) to provide legal certainty and legal protection; b) to provide information to interested parties; c) for the implementation of the orderly administration of land; d) legal basis for land registration law no. 5 of 1960 concerning basic regulations on agrarian principles government regulation no. 24 of 1997 concerning land registration; e) object of land registration: 1) parcels of land owned with ownership rights, usufructuary rights, building use rights and usufructuary rights; 2) land management rights; 3) waqf land; 4) ownership rights over flats; 5) mortgage rights; 6) state land; f) implementation of land registration: 1) the first time land registration activities include - 1a) physical data collection and processing; 1b) verification of rights and bookkeeping; 1c) certificate issuance; 1d) presentation of physical data and juridical data, and 1e) keeping public lists and documents.

In the process of registering land for the first time the requirements that must be fulfilled by the applicant are as follows: a) for former land belonging to *adat* which has a certificate of ownership - 1) the original certificate of ownership of the requested land includes petuk, girik, ketitir, pipil, verponding Indonesia before the entry into force of the basic agrarian law no. 5 of 1960; 2) the land acquisition certificates are obtained in sequence (buying and selling, grants, inheritance); 3) certificate of regional government about the history of the land; 4) a statement is not in dispute from the owner; 5) photocopy of applicant's identity card (buying and selling, inheritance, grants); 6) repayment of the latest tax notification due to land and building tax payable; 7) proof of payment of the land and building right acquisition fee if the acquisition of land after 1 January 1998; 8) proof of paying income tax. b) for formerly customary land that does not have a certificate of ownership: a) a statement that the applicant has actually possessed the relevant land for 20 years or more in a row or has obtained supervision from the parties who have mastered it so that the time of possession of the applicant and these predecessors numbered 20 years or more; b) land acquisition certificate; c) a statement that the control of the land has been carried out in good faith; d) a statement that the control of the land has never been contested is recognized and justified by the customary law community or the region or *kelurahan* concerned; e) declaration that the land is not in dispute; f) declaration, if the statement contains things that are not in accordance with reality, the signing is willing to be prosecuted before the judge both criminal and civil if providing false information; g) a statement from the head of the region or *lurah* and at least two witnesses whose testimony can be trusted, because of its function as the local customary leader or resident who has lived in the area or *lurah* for the location of the land concerned, and has no family relations with the applicant until second degree in both vertical and horizontal objections; h) photocopy of the applicant's identity; i) proof of payment of the latest land and building tax debt notification letter; j) proof of payment of the land acquisition duty fee, if the acquisition of land after 1 January 1998; and k) proof of payment of income tax.

Registration for data maintenance activities for land registration include; a) registration of the transfer and assignment of rights (occurring events and or legal actions such as Death, Sale, Grants, Swapping,

Guarantee of Mortgage Rights, Sharing of Common Rights); b) registration of changes in other land registration data (the owner of the right to change his name or address, etc., Clearing, Integration and so on); and c) proof of rights as a condition for land registration, as follows: 1) new rights - new land rights are proven by: 1a) determination of the granting of rights from the official authorized to give the relevant rights according to the applicable provisions if the granting of said rights comes from state land or land management rights; 1b) original deed of acting author of land deed, which contains the granting of the said right by the holder of the ownership right to the recipient of the said right if it concerns the building use rights and the usage rights on the property rights; 2) management rights are proven by stipulating the granting of management rights by the authorized official; 3) waqf land is proven by a waqf pledge deed; 4) ownership rights to the unit of flats are proven by a deed of separation; 5) granting of mortgage right is proven by deed of granting mortgage and 6) land registration fee.

V. CONCLUSION

It is concluded that the community legal awareness of land rights disputes in Bolaangmongondow Regency, Kotamabagu North Sulawesi through the use of legal aid institution has been well enhanced. But although so, the implementation of the extension program is very useful for the government and the community, especially for people who do not understand the civil dispute resolution procedures. Besides, the implementation of this extension program can increase public legal awareness, especially in Bolaangmongondow Regency, Kotamabagu North Sulawesi. Suggestions based on such conclusions, then several things can be given advice or recommendations, namely as follows: a) The local government ie North Sulawesi Regency in collaboration with the District government conducts legal counselling to improve legal understanding of the local community, and 2) The knowledge of the Regional Head and the regional apparatuses must also be increased through regular guidance regarding legal issues.

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