

AGRARIAN REFORM POLICY AS A TOOL FOR RESOLVING LAND TENURE CONFLICTS INVOLVING FORMER BUSINESS USE RIGHTS OF PT GUCI SARI TEGAL

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ABSTRACT

This study aims to formulate agrarian reform policy as an instrument for resolving land tenure conflicts on the former Right to Cultivate (HGU) land of PT Guci Sari in Tegal Regency. This research employs an empirical legal method with a qualitative approach. Research data sources were obtained through primary data in the form of interviews and observations, while secondary data were gathered from other legal sources. The results indicate that Agrarian Reform has served as tangible evidence of an effective conflict resolution instrument through a coordinative mediation mechanism. Based on Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (ADR Law), the two-phase conflict resolution on the former HGU land of PT Guci Sari was carried out through non-litigation channels emphasizing the principle of deliberation (*musyawarah*). The first phase involved mediation by the National Land Agency (BPN) to unravel the company's historical claims, whose rights had expired since 2016. The second phase was resolved through mediation by the Agrarian Reform Task Force (GTRA) along with cross-sectoral agencies, including the Forest Management Unit (KPH), the Housing and Settlement Areas Agency (Perkim), and the Pemalang Regency Government, to mediate land disputes between tenant farmers from Tegal and Pemalang Regencies. This implementation aligns with the problem-solving strategy theory to achieve a fair agreement. Ultimately, this policy produced concrete results in the form of determining the subjects and objects of asset redistribution, providing legal certainty through the issuance of Land Ownership Certificates (*Sertifikat Hak Milik*) for the tenant farmers.

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INTRODUCTIONS

Land is fundamental to human existence, serving as the bedrock for most activities and satisfaction of essential needs. Reflecting this, Indonesia's 1945 Constitution Article 33, paragraph (3), stipulates that the state hold control over land, water, and natural resource controlled by the state to be used as much as possible for the prosperity of the people. The right control the state (*Serifikat Hak Milik/SHM*) is not an absolute ownership right, buat a public authority to regulate, manage, and supervise use of the land in the national interest. The phrase mandates the state to

to perform the functions of land regulation and management, not as an absolute owner, but rather as an organization of power of the whole people (Harsono, 2018). However, at the implementation, this authority often forgets its management goals, thus triggering land tenure inequality and conflicts over land needs (Sari, 2017).

In line with article 33, paragraph (3) of 1945 Constitution, the state holds ultimate authority over all natural resource, including land with the express aim of maximizing public welfare (Harsono, 2018). Recognizing the vital and strategic importance of land, a dedicated institution with state level to manage and regulate this resource. In this context, the National Land Agency (BPN) has been designated as the primary implementing body exercising the State's authority over land. The BPN's primary duty is to administer land affairs, particularly regarding the granting and allocation of land rights derived from State-owned land, ensuring all processes are orderly and in accordance with constitutional objectives (Nugraha & Aziz, 2024). The development, use, and utilization of land in Indonesia must be carried out optimally to achieve various important objectives. This optimization is not only aimed at improving the quality of our living environment but also plays a vital role in reducing poverty rates, creating more jobs, and strengthening national food and energy security (Government Regulation of the Republic of Indonesia Number 11 of 2010 on the Control and Utilization of Abandoned Land).

In Indonesia, land ownership and usage can be vested in individuals or legal entities. The overarching framework for all land-related governance and regulations is the foundational agrarian law, specifically Law No 5 of 1960 concerning Basic Provisions of Agrarian Law (UUPA). However, ownership of the land granted to the community may also be revoked. One of the main reasons why ownership or management rights to the land may be revoked and transferred to the State is the abandonment of the land. Abandonment occurs when the rights holder intentionally fails to utilize, use, or cultivate the land in accordance with the conditions, nature, and purpose of the rights that have been granted (Article 7 The Agrarian Law). Essentially, the State grants management rights to its citizens on the condition that land must be actively and productively cultivated, used, or utilized in accordance with the social functions and objectives established when those rights were granted (Ardani, 2021). Consequently, if this obligation is abandoned, the rights to the land may be revoked.

One type of land right is the Right to Cultivate (HGU), which is held by PT Guci Sari. This situation is evident on the land formerly covered by PT Guci Sari's Right to Cultivate (HGU) in Kedawung Village, Tegal Regency. De jure, the HGU land rights expired on December 31, 2016, but the company did not extend or renew the rights. The legal consequences, land reverted to being directly controlled by the state. On the other hand, there is a de facto reality in which the surrounding community has been cultivating the land as a source of livelihood since 1997. The disparity between the expiration of the company's rights and the community's physical control without authentic proof of ownership creates significant legal vulnerability (Santoso, 2017). Although the community has exercised physical control over the land for generations, they lack authentic proof of ownership, creating legal vulnerabilities and the potential for protracted agrarian conflicts (Saragih & Pirandy, 2026). The fact that the land no longer has a legal connection to PT Guci Sari (due to the expiration of the rights and the absence of an extension) combined with the community's physical control over it means it meets the criteria for abandoned land. Among the communities using the land formerly under PT Guci Sari's Business Use Rights, conflicts over land claims with surrounding communities have also emerged, and disparities have arisen.

The discrepancy between the expiration of corporate rights and the community's physical control of the land without authentic proof of ownership creates legal vulnerabilities and the potential for protracted agrarian conflicts (Martini et al., 2019). In response to this urgency, the Government issued Presidential Regulation (Perpres) No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform. This regulation serves as a strategic legal instrument to transform land that is legally "abandoned" into productive assets through the mechanism of redistributing Land Subject to Agrarian Reform (TORA) to the poor and smallholder farmers (Article 2 Presidential Regulation Concerning the Acceleration of the Implementation of Agrarian Reform). This policy emphasizes the importance of legal certainty through improvements in procedures for the regulation and utilization of abandoned land to address the shortage of land for the people. This is in line with the principle that land law must serve as a tool for development that provides tangible protection for economically disadvantaged groups (Kusumaatmaja, 2006).

Previous research on management of Land Use Rights (HGU) in Indonesia was conducted by Nipo Natalis (2019) in a study titled “Efforts to Resolve Conflicts Between Overlapping Land Use Rights and Community Cultivation Rights” (Natalis, 2019), primary focus is on resolving conflicts arising from overlapping claims between holders of HGU certificates and communities’ cultivation rights through mediation as a non-litigation mechanism to achieve social harmony. Meanwhile, another previous study by Sri Martini, Maiza Hazrina Ash-Shafikh, and Nur Choirul Afif (2019), titled “The Implementation of Agrarian Reform in Meeting the Expectations of Communities in Land Disputes” (Martini et al., 2019) emphasizes the aspect of post-conflict sustainability, wherein strategies for implementing agrarian reform must be able to integrate asset management with access management to ensure that land redistribution truly contributes to improving the economic well-being of its beneficiaries. Both studies provide a strong theoretical foundation regarding the state’s role in addressing land tenure inequalities through mediation and empowerment approaches.

However, this study offers a specific novelty by focusing on the former Right to Cultivate (HGU) land of PT Guci Sari in Tegal Regency. Unlike previous studies, which generally examined conflicts over active Right to Cultivate (HGU) or overlapping permits that had not yet expired, the background of this study highlights Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation as the latest analytical tool for addressing land that has already been designated as state-owned land. This acceleration instrument is used to examine how the transformation of land status from former corporate holdings to Agrarian Reform Object Land (TORA) can be carried out in a more systematic and legally certain manner. By comparing findings from previous research, this study aims to address gaps regarding procedural justice for farmers on land where their rights have been extinguished, ensuring that the proposed solutions go beyond merely distributing certificates to providing absolute and sustainable legal certainty for local communities in Tegal Regency.

Based on the above discussion, it is clear that there is a legal urgency to establish absolute certainty regarding the land tenure rights of the community on the former Right to Cultivate (HGU) land of PT Guci Sari. Agrarian reform policies should not be viewed merely as land administration procedures, but must be positioned as strategic and solution-oriented instruments for resolving agrarian conflicts that have persisted for years. Through appropriate asset restructuring mechanisms as mandated by regulations on accelerating agrarian reform, the state has the opportunity to deliver justice while ending the legal uncertainty that has long shrouded farming communities. Therefore, this research is urgent and important to demonstrate that agrarian reform is a concrete solution for achieving a comprehensive, just, and sustainable resolution of land conflicts.

RESEARCH METHODOLOGY

This study employs a juridical-empirical approach, a research method that focuses on legal realities in society and the effectiveness of positive law in practice regarding the implementation of agrarian reform as a conflict resolution tool. (Marzuki, 2025) This method is used to conduct an in-depth analysis of the process of designating Land Subject to Agrarian Reform (TORA) and the implementation of the redistribution of land formerly under the Cultivation Rights (HGU) of PT Guci Sari to determine to what extent this policy can ensure legal certainty for the farming communities in Tegal Regency who have de facto controlled the land since 1997. This study adopts an explanatory legal sociology approach (Aprita, 2021), which explains the relationship between regulatory variables for accelerating the implementation of agrarian reform and the concrete reality of resolving land tenure conflicts. This approach includes an analysis of the implementation of Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation and its tangible impact on the protection of community rights over state-owned land formerly held by corporations. In addition, a legal review is also used to understand the principles of legal certainty and legal protection in the practice of registering redistributed land as a solution to land tenure disputes.

Data Collection Methods used in this study involved field research (Ven & Poole, 2017) and a literature review (Smela et al., 2023) to examine why agrarian reform was chosen as a solution to the conflict. Primary data was obtained directly from primary sources through in-depth interviews with officials at the Tegal Regency Land Office and observations of agrarian reform subjects in Kedawung Village to assess the effectiveness of the policy at the

grassroots level. Meanwhile, secondary data was collected through the analysis of primary legal sources such as the UUPA and the Presidential Regulation on Agrarian Reform, as well as secondary legal sources consisting of books, legal journal articles, and relevant prior research on agrarian conflicts and the redistribution of former HGU land.

Data analysis was conducted qualitatively, by examining, describing, and interpreting data obtained from the field as well as relevant legal provisions to draw systematic conclusions regarding the urgency of agrarian reform as a means of breaking the cycle of conflict (Nadirah et al., 2022). This analysis aims to dissect how agrarian reform policies function as concrete instruments for resolving land tenure conflicts through the conversion of state-owned land into community ownership. With this approach, the study is expected to provide an in-depth understanding of the effectiveness of accelerating agrarian reform and to offer practical recommendations for land agencies and legal practitioners to ensure legal certainty and social justice in the agrarian sector.

RESULT AND DISCUSSIONS

Designation of Abandoned Land Formerly Under a Cultivation Right (HGU) Held by PT Guci Sari as Land Subject to Agrarian Reform (TORA)

Agrarian reform is a legal instrument mandated by the Constitution to restructure the control, ownership, and use of agrarian resources in order to achieve justice and legal certainty for the people. In line with this mandate, Presidential Regulation No. 86 of 2018 on Agrarian Reform (now reinforced by Presidential Regulation No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform) defines agrarian reform as an effort to restructure the agrarian system to be more equitable. This is achieved through the restructuring of assets coupled with the restructuring of access to optimize the prosperity of the Indonesian people.

Agrarian reform is rooted in the principle that all land within the territory of the Unitary State of the Republic of Indonesia is a gift from God Almighty to the Indonesian nation. Based on the constitutional mandate, the state holds the highest authority to manage these resources for the broad prosperity of the people. However, on-the-ground realities reveal significant disparities in land control and ownership (Umar et al., 2024). Therefore, the government faces an urgent need to restructure the framework of land control, ownership, use, and utilization to achieve social justice and enhance public welfare.

The designation of land formerly under PT Guci Sari's Cultivation Rights (HGU) as Land Subject to Agrarian Reform (TORA) is based on legal considerations and empirical evidence on the ground indicating a discrepancy between the rights granted and the actual use of the land. According to land registration data, PT Guci Sari holds rights to land located in Kedawung Village, Tegal Regency; however, the term of these rights expired as of December 31, 2016. In accordance with the provisions of Article 18 of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA), the revocation of land rights may occur due to the expiration of the term as stipulated in the decision granting the rights.

In the case of PT Guci Sari, the failure of the rights holder to extend or renew the rights resulted in the land's legal status reverting to land directly controlled by the state. This situation is further supported by the fact that the land has been identified as abandoned land. Pursuant to Government Regulation No. 11 of 2010 on the Regulation and Utilization of Abandoned Land, the state has the authority to reclaim land that is not cultivated, not used, or not utilized in accordance with the conditions, nature, and purpose for which the rights were granted.

Designating this location as an agrarian reform site is relevant given the mandate of Presidential Regulation No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform. Former HGU land whose rights have expired and for which no extension has been requested constitutes a primary source of TORA (Manurung et al., 2024). This aims to correct land ownership disparities and provide legal certainty for the community. Empirically, the community in Kedawung Village has controlled and cultivated the land since 1997 for agricultural and residential purposes. Therefore, the policy designating the former HGU of PT Guci Sari as TORA is not merely an administrative action, but a legal instrument to legalize the community's physical control that has been in place for decades. This step was taken to avoid broader agrarian conflicts and ensure that the land serves a social function (Prayoga & Bangsawan, 2022).

Agrarian Reform Policy as a Tool for Resolving Land Conflicts Involving Former PT Guci Sari Land Use Rights

The effectiveness of agrarian reform policies in resolving land tenure conflicts in Kedawung Village, Tegal Regency, is measured by the ability of these legal instruments to convert the reality of physical control into legally recognized rights. The land tenure conflict arising from the historical claims of PT Guci Sari and the community's actual control since 1997 created a legal impasse that could only be resolved through state intervention in the form of asset redistribution (Natalis, 2019). Pursuant to Presidential Regulation No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform, the government has introduced an acceleration mechanism that reduces bureaucratic obstacles in the designation of the subjects and objects of Land Subject to Agrarian Reform (Article 4 Presidential Regulation Number 62 of 2023 Concerning the Acceleration of the Implementation of Agrarian Reform). During this phase, the conflict between the company and the local community was mediated by the National Land Agency (BPN), which ultimately led to PT Guci Sari withdrawing its claim to the land. This decision was based on the legal fact that the company's rights had expired as of December 31, 2016, and the company had not filed for an extension or renewal of those rights. This event marked the first conflict that occurred at the beginning of the period of land control by the local community and tenant farmers.

In his presentation, Mr. Joko, Head of the Land Management and Empowerment Section at the Tegal Regency Land Office, explained that following the expiration of PT Guci Sari's former Right to Cultivate (HGU), the land met the criteria for being classified as abandoned land because it was not being utilized in accordance with the purpose for which the right was granted; consequently, its legal status reverted to land directly controlled by the state. Furthermore, this land was processed to be designated as Land for Agrarian Reform (TORA) through an asset redistribution mechanism to the community. However, during the transition process toward Agrarian Reform Object Land (TORA) and the implementation of its redistribution, a second conflict arose in the form of disputes and struggles over land control regarding the boundary criteria for eligible recipients between tenant farmers from Tegal Regency and Pemalang Regency. This occurred because the location of the former Land Use Right (HGU) land is situated on the border between Tegal Regency and Pemalang Regency. To prevent the escalation of these disputes among tenant farmers, the Tegal Regency Agrarian Reform Task Force (GTRA), together with the Forest Management Unit (KPH), the Housing and Settlement Agency (Perkim), and the Pemalang Regency Government, acted as mediators to facilitate cross-sectoral and administrative coordination to ensure justice for all parties involved.

The two-phase conflict issue described above is resolved through a mediation mechanism. This mechanism is in accordance with Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (ADR Law), which defines mediation as a procedure for resolving disputes outside of court through negotiation with the assistance of a neutral third party. Alternative Dispute Resolution (ADR) aims to provide a faster, more efficient, simpler, and less costly resolution compared to formal judicial proceedings (Ibrahim et al., 2022). Under this Act, Alternative Dispute Resolution (ADR) is understood as the resolution of disputes or disagreements through procedures agreed upon by the parties, which include consultation, negotiation, mediation, conciliation, and expert assessment conducted in good faith, thereby bypassing resolution through the courts.

One of the primary forms of Alternative Dispute Resolution (ADR) is mediation, which in practice emphasizes the role of the mediator as a neutral party whose sole function is to assist the parties in reaching an agreement, without having the authority to adjudicate the dispute. Therefore, Alternative Dispute Resolution (ADR) is not only an alternative to litigation but also a more flexible approach focused on achieving win-win solutions in conflict resolution (Yuniarti, 2017). In practice, this process aims to reach an agreement that accommodates the interests of the parties through consensus and in good faith. The mediation approaches employed by the National Land Agency (BPN) and the Agrarian Reform Task Force (GTRA) can be analyzed through the theory of dispute resolution proposed by Dean G. Pruitt and Jeffrey Z. Rubin. Based on this theory, there are five main strategies for addressing dispute resolution:

1. Contending: Attempting to implement a solution preferred by one party over the other.

2. Yielding: Lowering one's own expectations, in which one party is willing to accept an outcome that falls short of their original desires in order to achieve peace.
3. Problem Solving: Seeking alternatives that satisfy the aspirations of both parties.
4. Withdrawing: Choosing to leave the conflict situation, either physically or psychologically.
5. Inaction: Taking no action whatsoever (PRUITT et al., 2004).

Meanwhile, according to Jay Folberg and Alison Taylor, mediation is a dispute resolution process that involves a neutral third party to assist the disputing parties in identifying the issues at stake, developing various resolution options, and considering alternatives to reach an agreement that accommodates the interests of each party (Suherman, 2017). Within the context of Alternative Dispute Resolution (ADR), which includes methods such as negotiation, conciliation, and arbitration, mediation holds a significant position because it emphasizes a consultative approach, constructive communication, and the active participation of the parties. The mediation process is carried out systematically through the stages of problem identification, exploration of interests, formulation of options, and the reaching of a mutual agreement, with the mediator acting as a facilitator without the authority to resolve the dispute (Gardner, 1986). Therefore, mediation is viewed as an effective and efficient method of dispute resolution, as it not only produces mutually beneficial solutions (win-win solutions) but also helps maintain good relations among the parties and provides more substantive justice.

Through this series of coordinated mediation processes, a concrete agreement was formulated that defines the beneficiaries and the subject of agrarian reform regarding the land formerly under PT Guci Sari's HGU. As a means of fulfilling rights and ensuring distributive justice, tenant farmers who have passed verification as eligible beneficiaries will be granted title to the land. This legal certainty is realized through the issuance of Certificates of Ownership (SHM), which not only serve as proof of absolute ownership protecting farmers from the threat of future disputes but also function as an instrument of economic empowerment capable of improving the standard of living for communities in Tegal Regency and surrounding areas. Thus, the agrarian reform on the former Land Use Rights (HGU) land of PT Guci Sari has successfully transformed a conflict over land control into legally established rights that provide security for the people and order for the national land administration.

CONCLUSION

Based on the results of the discussion, the agrarian reform policy plays a fundamental role as an instrument for resolving land tenure conflicts on the former Cultivation Rights (HGU) of PT Guci Sari, as it serves as the primary legal mechanism for converting the status of abandoned state land into productive assets with legal certainty. The designation of the location as Land Subject to Agrarian Reform (TORA) is a legally valid step under Presidential Regulation No. 62 of 2023, given that the corporation's land rights expired in 2016 and there is a reality of physical control by the farming community that has been passed down through generations since 1997. This policy serves not only as a land administration measure but also as a manifestation of the social function of land in minimizing social vulnerability and the risk of prolonged disputes among parties..

The land tenure conflict arising from the historical claims of PT Guci Sari and the community's actual occupation of the land since 1997 created a legal impasse that could only be resolved through state intervention in the form of asset redistribution. In the first phase, the conflict was mediated by the National Land Agency (BPN), until PT Guci Sari eventually withdrew its claim because the term of the rights had expired and was not renewed. However, the transition process toward this asset redistribution gave rise to a second phase of conflict: a struggle for land control at the grassroots level among fellow tenant farmers from Tegal and Pemalang Regencies.

The resolution of these two-phase conflicts was successfully formulated through a coordinated mediation mechanism in accordance with Law No. 30 of 1999 on ADR, and by applying problem-solving strategies as outlined in Pruitt and Rubin's theory. This mediation success was achieved through cross-sectoral collaboration involving the Tegal Regency Agrarian Reform Task Force (GTRA), the Public Works and Housing Department, the Forest Management Unit (KPH), and the Pemalang Regency Government. Through this mediation, the accurate determination of the subjects and objects of agrarian reform was decided, followed by the granting of ownership rights

in the form of Certificates of Ownership (SHM) to the farming communities. Thus, agrarian reform has proven effective in transforming the status of informal land into absolute ownership rights, while simultaneously realizing social justice and legal stability in the region..

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