

**Analysis Of The Plaintiff's Lawsuit For The Defendant's Unlawful Act To Control The Rights To Land Owned By Another Person Which Was Rejected By The Rokan Hilir State Court (Niet Onvankelijk Verklaard) For Ne Bis In Idem Reasons Based On May Ruling Number: 4348 K/Pdt/2022)
(Study Decision Number. 42/PDT.G/2023/PN RHL)**

Jhonni Simanjuntak¹⁾, Sriono²⁾, Nimrot Siahaan³⁾
^{1,2,3)}Faculty of Law, Labuhanbatu University

*Corresponding Author
Email: sriono.mkn@gmail.com

Abstract

This study aims to examine the application of the Defendant's Unlawful Acts in the Plaintiff's Land Rights Dispute Rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) Due to NeBis In Idem Reasons based on Supreme Court Decision Number: 4348 K/Pdt/2022 and Decision Number 42/Pdt.G/2023/PN Rhl). The type of research used is normative legal research. Discussion Results: the lawsuit dated September 22, 2023 which was received and registered at the Rokan Hilir District Court Clerk's Office on September 25, 2023 with Registration Number 42/Pdt.G/2023/PN Rhl, cannot be accepted (niet ontvankelijke verklaard) by the judge for several reasons, including: the plaintiff's lawsuit against the Defendants in the same object has occurred in the Rokan Hilir District Court with Decision Number 34/Pdt.G/2020/PN.Rhl to the Cassation level at the Supreme Court, so that in accordance with the MARI decision Number: 4348 K/Pdt/2022 dated December 13, 2022, the case has been decided and has permanent legal force. This is in accordance with the provisions of Article 1917 of the Civil Code, which reads "The power of a Judge's decision that has obtained absolute force is not broader than just regarding the matter of the decision. This means that a case that has been decided by a previous judge and has obtained permanent legal force cannot be sued again with the same subject and object in the future. That the MARI decision Number: 647/K/sip/1973 which states: "The existence or absence of the principle of ne bis in idem is not solely determined by the parties, but especially that the object of the dispute has been given a certain status by a previous Court decision and has permanent legal force". So the judge has the right to reject or not accept the lawsuit from the plaintiff to the plaintiff for a lawsuit whose subject and object are the same

Keywords: *Lawsuit, Plaintiff, Unlawful Act, Defendant Land Rights, Rejected (Niet Onvankelijk Verklaard), Ne Bis In Idem*

INTRODUCTION

We often hear about land ownership disputes in district courts. The plaintiff and defendant are both fighting for ownership rights to the land as a legitimate part of the land. Ownership of land often does not pay attention to where the land came from. Where in these disputes we often find that historical ownership of land rights often becomes very important when land disputes surface as a solution to problems that occur between the plaintiff and the defendant.

There are 2 decisions with the same subject and object in the land dispute case in Rokan Hilir which have permanent legal force in the MARI decision Number: 4348 K/Pdt/2022 dated 13 December 2022 and Decision Number 42/Pdt.G/2023/PN Rhl, This could give rise to legal uncertainty regarding these two decisions. Where, based on the provisions of Article 1917 of the Civil Code, which reads "The power of a judge's decision which has obtained absolute force is not wider than just the matter of the decision. In order to promote this power, it is necessary that the matter demanded is the same, that the demands are based on the same reasons, and are advanced by and against the same parties in the same relationship." This means that a case that has been decided by a previous judge and has obtained legal force cannot still be sued again with

the same subject and object. So the judge has the right to refuse to grant part or all of the plaintiff's claim regarding the land dispute. With the existence of land dispute cases filed by the same subject and object in the plaintiff's lawsuit, this has given rise to many perceptions in the community about the legal force of the previous judge's decision on land dispute cases where the subject and object are the same. This is the background for the author to conduct research with the title: "Analysis of the Plaintiff's Lawsuit for the Defendant's Unlawful Actions in Controlling Other People's Land Rights "Which was rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) for Nebis In Idem reasons based on Supreme Court Decision Number: 4348 K/Pdt/2022 (Study Decision Number, 42/Pdt.G/2023/PN-Rhl)"

With the background description above, the author formulates how to apply the Defendant's Unlawful Actions in the Plaintiff's Land Rights Dispute which was Rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) for NeBis In Idem Reasons based on Supreme Court Decision Number: 4348 K/Pdt/2022 and Decision Number 42/Pdt.G/2023/PN Rhl)?

RESEARCH METHODS

The type of research used is normative legal research. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research places law as a building system of norms. The norm system in question is about principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This research uses a statutory approach and a conceptual approach. The statutory approach is used to obtain an overview of the "Analysis of the Plaintiff's Lawsuit for the Defendant's Unlawful Act of Controlling Land Rights of Another Person which was Rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) for Ne Bis In Idem Reasons Based on Supreme Court Decision Number: 4348k /Pdt/2022 (Study Decision Number. 42/Pdt.G/2023/Pn Rhl)."

RESULT AND DISCUSSION

Unlawful Actions Over Land Disputes

According to Muhamad Yamin Lubis, et.al in his book Advanced Agrarian Law, they say that: Juridical provisions governing the existence of land are contained in Law Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as UUPA), which is the implementation of The provisions of Article 33 paragraph (3) of the 1945 Constitution which states that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Land rights are rights that give authority to those who have the right to use or take advantage of the land they own. The word use implies that land rights are used for the purpose of constructing buildings, for example houses, shops, hotels, offices, factories.

Provisions regarding land rights are regulated in Article 16 paragraph (1) of the UUPA which states that: "land rights as intended in Article 4 paragraph (1) are:

- a. Right of ownership;
- b. Cultivation Rights;
- c. Building rights;
- d. Use rights;
- e. Leasehold;

f. Right to open land;
g. The right to collect forest products;
h. Other rights that are not included in the rights mentioned above will be determined by law as well as temporary rights as mentioned in Article 53.

Acts against the law are regulated in the Civil Code in Articles 1365-1380 of the Civil Code, including obligations arising from law. Article 1365 of the Civil Code states: "Every unlawful act that causes harm to another person requires the person whose fault it was to cause the loss to compensate for the loss." The unlawful acts referred to in Article 1365 of the Civil Code can ensnare people who control land belonging to other people. This land control occurred because the handover and ownership of the Ownership Certificate (SHM) was carried out in violation of statutory regulations, where violating statutory regulations is an unlawful act. Acts against the law regarding land ownership rights in agrarian law are called or known as land disputes.

Application of the Defendant's Unlawful Actions in the Plaintiff's Land Rights Dispute which was Rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) for Ne Bis In Idem Reasons Based on Supreme Court Decision Number: 4348 K/Pdt/2022 and Decision Number 42/Pdt.G/ 2023/PN Rhl)

Concerning Case Sitting

1. Whereas in 1950 Karyo Rejo married Sani, in this marriage they were blessed with 2 (two) daughters, the first child was named Sikem (Plaintiff I), and the second child was named Sarni;
2. Whereas Karyo Rejo died in 1982, while Sani also died in 1986;
3. That the second child of the late Karyo Rejo and the late Sani, named Sarni, also died in 2018;
4. Whereas the late Sarni had 5 (five) children in her marriage to her husband named Sapon who also died in 2015;
5. The children of the deceased Sarni are: the first child, a man, was named Sukijo alias Sisu (Plaintiff II), the second child, a man, was named Kadar (Plaintiff III), the third child, a woman, was named Fitriaty (Plaintiff IV), a woman's fourth child was named Darni (Plaintiff V), and a woman's fifth child was named Misni (Plaintiff VI);
6. Whereas on January 1, 1985 the late Sani purchased an empty plot of land from the late Zaham measuring 31,380 m² (thirty-one thousand three hundred and eighty square meters) with a compensation fee of IDR 850,000 (eight hundred and fifty thousand rupiah) located on Jl. Simpang Ilmu, RT. I, RW. I, Bangun Rejo Hamlet, Bahtera Makmur Village, Kubu District, Bengkalis Regency, Riau Province, as explained in the Letter. Land Information dated January 1, 1985, witnessed by the land borders and known by the Head of the RT and the Head of the local RW, with the following boundaries:
 - to the north is bordered by Ramli land, 294 meters;
 - to the south is bordered by Salik land, 229 meters;
 - East side borders Edi's land, 155 meters;
 - West side is bordered by Road, 120 meters;
7. That in line with regional expansion and the frequency of transfer of land rights, currently this land plot is administratively located on Jl. H. Imam Munandar, RT. 001, RW. 001, Bahtera Makmur Kota Subdistrict, Bagan Sinembah District, Rokan Hilir Regency, Riau Province, and its size is reduced in the South and East due to the government policy in

the national project to certify people's land and part of it is donated for burial waqf land, so that the area of the land is reduced to 30,480 m² (thirty thousand four hundred and eighty square meters) with the boundaries:

- to the north is the Wan Safri plot of land, 294 meters;
 - to the south is bordered by Boimin, Suyono and waqf land, 214 meters;
 - to the east is bordered by the Suratman plot of land, 146 meters;
 - West side is bordered by Jl. H. Imam Munandar, 120 meters;
8. that the late Sani began cultivating and managing this plot of land since 1985 by carrying out work of clearing the bushes that grew on it and planting secondary crops;
 9. Whereas at that time the late Sani also gave permission to the local community to cultivate crops with secondary crops on that plot of land;
 10. That when the late Sani carried out activities on the plot of land, it was empty in the form of bushes and was not being cultivated or under anyone's management, and no one else protested or objected to the activities carried out by the late Sani on the plot of land. ;
 11. Whereas since 1985 the late Sani managed the plot of land, then after the deceased Sani died in 1986, the management of the plot of land was continued by Plaintiff II by planting rubber and oil palm on the plot of land, then since 1996 Plaintiff III continued management of the plot of land including the rubber and oil palm trees on it, where management of the plot of land has been carried out continuously since 1985 and has never been neglected;
 12. Whereas in 1996 Defendant I unlawfully claimed that part of the plot of land belonging to the late Sani measuring 9,795 m² (nine thousand seven hundred and ninety five square meters) was his right. The boundaries of the plot of land claimed ownership by Defendant I are:
 - to the north is the Wan Safri plot of land, 70 meters;
 - to the south is bordered by Suyono land and waqf land, 85 meters;
 - to the east is bordered by the Suratman plot of land, 146 meters;
 - West side borders on the Plaintiffs' land, 162 meters;hereinafter referred to as the LAND OBJECT OF THE DISPUTE
 13. Whereas since 1996, Defendant I has controlled the land plot of the disputed object and tapped (tendered) the rubber trees on it, then since 2014 until now, control over the land plot of the disputed object and the tapping of the rubber trees on it has been continued by Defendant II who is the younger sibling of Defendant I;
 14. Whereas Plaintiff II and Plaintiff III have repeatedly admonished the Defendants to return the land plot of the disputed object including the rubber trees on it to the Plaintiffs as heirs of the late Sani as stated in the Land Certificate dated January 1 1985, but the Defendants did not ignore it.
 15. Whereas in February 2023, Defendant I made a boundary ditch on the West side of the disputed plot of land using heavy equipment, but Defendant I's activities were stopped by Plaintiff II and Plaintiff III along with local government officials; Supreme Court of the Republic of Indonesia
 16. Whereas in March 2023 Plaintiff II and Plaintiff III uprooted rubber trees on the plot of land subject to dispute;

17. That because the deceased Sani has passed away, the position of the deceased Sani in filing this lawsuit has been replaced by Plaintiff I as his heir together with Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI as substitute heirs of the deceased Sani;
18. That because the plot of land object of dispute was obtained by the late Sani in a legal manner according to law and has also been managed continuously by planting secondary crops on it, then after the deceased Sani passed away the management of the plot of land object of dispute including rubber trees and oil palms was on it continued by Plaintiff II and Plaintiff III and was never abandoned, then it is appropriate and legally reasonable if the Plaintiffs are declared as the legal owners of the plot of land subject to dispute which is an inseparable part of the plot of land covering an area of 31,380 m² (thirty one thousand three hundred and eighty square meters) as referred to in the Land Certificate dated 1 January 1985, the area of which was then reduced to 30,480 m² (thirty thousand four hundred and eighty square meters);
19. Whereas the actions of the Defendants in claiming ownership and control of the land plot of the disputed object and tapping the rubber trees on it, even though the land plot of the disputed object and the rubber trees on it are the property of the Plaintiffs, then the Defendants' actions constitute an Unlawful Act (onrechtmatigedaad);
20. That because the plot of land object of dispute is the property of the Plaintiffs, it is appropriate and legally reasonable if the Defendants are punished to distance themselves and stop any activities on the plot of land object of dispute, and it is also reasonable and legal if the Defendants and anyone else who controls and /or obtain any rights to the disputed object plot of land from the Defendants, they are sentenced to hand over the disputed object plot of land to the Plaintiffs in good and intact condition as before, by vacating personal belongings, buildings and plants built or planted on the object plot of land disputes other than those built and planted by the Plaintiff, and without any burden;
21. That in order for the Defendants to be serious about implementing the decision in this case, it is appropriate and legally reasonable for each of the Defendants to be sentenced to pay forced money (dwangsom) amounting to Rp. 100,000,- (one hundred thousand rupiah) to the Plaintiffs every day if each Defendant fails to implement the decision; Supreme Court of the Republic of Indonesia
22. That as a result of the Defendants' Unlawful Actions, the Plaintiffs have suffered losses both material and moral, with details as follows:
 - i. Material Losses: That as a result of the actions of the Defendants, the Plaintiffs have suffered material losses in the form of loss of profits that should have been obtained from tapping rubber trees planted on the plot of land subject to dispute from 1996 until now, where the results of tapping rubber trees on average produce rubber latex as much as 200 (two hundred) kg every month x 12 (twelve) months x 27 (twenty seven) years x average price of rubber latex Rp. 10,000,- (ten thousand rupiah) per kg = Rp. 648,000,000,- (six hundred and forty eight million rupiah);
 - ii. Moral Loss: That as a result of the actions of the Defendants, the Plaintiffs have also suffered moral losses in the form of disruption to the Plaintiff's daily activities,

therefore it is appropriate and reasonable for this loss to be assessed in the amount of Rp. 200,000,000,- (two hundred million rupiah);

Whereas for the material and moral losses suffered by the Plaintiffs, it is appropriate and legally reasonable if the Defendants are jointly and severally punished to compensate for the material and moral losses and pay them to the Plaintiffs in cash and at the same time;

23. That the Co-Defendant was withdrawn as a party in this case because Defendant I, in claiming ownership of the land plot of the disputed object, argued that he had the ownership rights issued by the Co-Defendant, so that the Co-Defendant was deemed to have a legal interest in this case, therefore it was appropriate and had legal grounds if the co-defendant is sentenced to submit and comply with the decision in this case;

Primary:

1. Accept and grant the Plaintiffs' lawsuit in its entirety;
2. Declare that the Plaintiffs are the legal owners of the land plot subject to dispute: A plot of land covering an area of 9,795 m² (nine thousand seven hundred and ninety five square meters) located on Jl. H. Imam Munandar, RT. 001, RW. 001, Bahtera Makmur Kota Village, Bagan Sinembah District, Rokan Hilir Regency, Riau Province, with boundaries:
 - to the north is the Wan Safri plot of land, 70 meters;
 - to the south is bordered by Suyono land and waqf land, 85 meters;
 - to the east is bordered by the Suratman plot of land, 146 meters;
 - West side borders on the Plaintiffs' land, 162 meters;Which is an inseparable part of a plot of land owned by the Plaintiffs covering an area of 31,380 m² (thirty one thousand three hundred and eighty square meters) as explained in the Land Certificate dated 1 January 1985, which was then reduced to 30,480 m² (thirty thousand four hundred eighty square meters); with limits:
 - to the north is the Wan Safri plot of land, 294 meters;
 - to the south is bordered by Boimin, Suyono and waqf land, 214 meters;
 - to the east is bordered by the Suratman plot of land, 146 meters;
 - West side is bordered by Jl. H. Imam Munandar, 120 meters;
3. Declare that the Defendants have committed an Unlawful Act (onrechtmatigedaad);
4. Punish the Defendants to distance themselves and stop any activities on the land plot of the disputed object, and punish the Defendants and anyone who controls and/or obtains any rights over the land plot of the disputed object from the Defendants to hand over the land plot of the disputed object to the Plaintiffs in good condition and intact as before, with personal belongings, buildings and plants that were built or planted on the land plot of the disputed object other than those built and planted by the Plaintiffs empty, and without any encumbrances
5. Sentencing the Defendants to pay forced money (dwangsom) to the Plaintiffs each in the amount of IDR 100,000 (one hundred thousand rupiah) every day if the Defendants fail to carry out the decision in this case;
6. Punish the Defendants jointly and severally to compensate for the material losses suffered by the Plaintiffs amounting to Rp. 648,000,000, (six hundred and forty eight million rupiah), and moral losses amounting to Rp. 200,000,000,- (two hundred million rupiah) and pay it to the Plaintiffs in cash and at once;

7. Sentence the co-defendant to submit and comply with the decision in this case;
8. Sentence the Defendants jointly and severally to pay all costs incurred in this case.

Subsidiary:

If His Excellency the Chairman of the Rokan Hilir District Court through His Excellency the Panel of Judges who examined and adjudicated this case has a different opinion, the Plaintiffs are requested to provide the fairest possible decision (ex aequo et bono).

- Considering that on the appointed trial day, Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V, Plaintiff VI, Defendant I and Defendant II each came to appear before their Attorney, while the Co-Defendants did not come or ordered anyone else to act as His authority to appear at the trial even though based on the minutes of court summons dated 27 September 2023, 10 October 2023 and 25 October 2023 had been properly and appropriately summoned but it was not found that the failure to appear was due to a legitimate obstruction, therefore the examination of this case was continued without the presence of the Co-Defendant;
- Considering that the Panel of Judges has sought peace between the parties through mediation as regulated in Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in Court by appointing Hendrik Nainggolan, S.H., Judge at the Rokan Hilir District Court, as Mediator;
- Considering that based on the Mediator's report dated 29 November 2023, the peace efforts were not successful; Considering that because mediation was unsuccessful, Defendant I and Defendant II were asked for their consent to carry out the trial electronically; Considering that regarding the lawsuit of Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI, Defendant I and Defendant II stated that they were willing to carry out the trial electronically;
- Considering that the lawsuits of Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI have been read, the contents of which are still maintained; Considering that at the hearings on 12 December 2023 and 23 January 2024, the Parties agreed and signed a jointly prepared court calendar; Considering that regarding the lawsuit of Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI, Defendant I and Defendant II submitted the following answer:

IN EXCEPTION

1. That the Defendants (Defendant I and Defendant II) firmly reject all the arguments of the Plaintiff's lawsuit, except for matters which are expressly acknowledged as true.
2. Plaintiffs' Lawsuit Ne Bis In Idem.
3. The plaintiffs' lawsuit is vague and unclear (Obscure Libel).
4. Lawsuit of Less Participant Plaintiffs (Plurium Litis Consortium).
5. The Plaintiffs' Lawsuit Expired (Verjaring)

IN THE SUBJECT OF THE CASE

1. We ask that what has been stated in the statement of the Defendants (Defendant I and Defendant II) also be considered in the main case. Supreme Court of the Republic of Indonesia
2. That the Defendants firmly deny the arguments of the Plaintiffs' lawsuit in point 3 regarding the late. Sapon died in 2015, even though the late Sapon died on July 29 2016.
3. That the Defendants firmly deny the argument of the Plaintiffs' claim in point 6 regarding the Plaintiffs' ownership of the disputed land object based on the Land Certificate dated 1 January 1985 covering an area of 31,380 M2 (thirty-one thousand three hundred and eighty square meters) located on Jalan RT.1 RW 1 Research Intersection, Bangun Rejo

Hamlet, Bahtera Makmur Village, Kubu District, Bengkalis Regency, now on Jalan H. Munanadar RT.01 RW.01 Bahtera Makmur Village, Bagan Sinembah District, Rokan Hilir Regency, Riau Province and its boundaries;

4. That Defendant I has controlled the a quo land since 1986, and even had the opportunity to meet Mrs. Sani when working on the a quo land, because the land owned by Defendant I was in line with the land owned by Mrs. Sani, but Mrs. Sani never reprimanded Defendant I or sued Defendant I. because Defendant II and Defendant III knew that Defendant I had been gardening on the a quo land.
5. That it is not true that Plaintiff II has planted rubber trees on land belonging to Defendant I because the actions of Plaintiff II and Plaintiff III who have cut down all the rubber trees belonging to Defendant I have been reported to the Bagan Sinembah Police without permission. as per Police Report Number: LP/B/57/V/2023/SPKT/POLSEK BAGAN SINEMBAH/POLRES ROKAN HILIR/POLDA RIAU dated 02 May 2023.
6. Whereas as a result of the actions of Plaintiff II and Plaintiff III who cut down all the rubber trees belonging to Defendant I, the report has escalated to the level of investigation so that Defendant III has been detained and the case has been tried at the Rokan Hilir District Court, while Defendant II has not yet had his case processed because The summons to the Bagan Sinembah Police has not been answered by Defendant II.
7. That the Defendants firmly reject the Plaintiffs' claim regarding the demand to vacate/dismantle all the rubber plants belonging to Defendant I, because it has no legal grounds so it must be declared rejected or unacceptable (Niet Onvankelijk Verklaard).
8. That the Defendants reject the Plaintiffs' argument in the lawsuit at point 21 regarding demands for forced money (dwangsom) amounting to Rp. 100,000,- (one hundred thousand rupiah) every day because it is not based on law in accordance with MARI Jurisprudence Number: 496 K/Sip/1971 September 1, 1071, so that such an argument must be declared rejected or unacceptable (Niet Onvankelijk Verklaard).
9. That it is very unreasonable that the Plaintiffs of the Supreme Court of the Republic of Indonesia suffered material and moral losses because the rubber trees belonged to Defendant I and were harvested by Defendant I, while the land belonging to Mrs. Sani was controlled by Plaintiff III and had a Certificate of Compensation (SKGR) registered Number: 142/SKGR/BM/2005 dated 28 August 2005 in the name of Kadar (Plaintiff III), which Plaintiff III had purchased from Mr. Sapon for Rp. 65,000,000,- (sixty five million rupiah) with an area of 22930 M2 (twenty two thousand nine hundred and thirty square meters).

In Reconvention

1. That everything described by the Defendants (Defendant I and Defendant II) in the Convention should be considered as included in this Reconvention.
2. Whereas in 1986 Defendant I in the Convention/Plaintiff in the Reconvention purchased the land subject to dispute from the late Salik, since then Defendant I in the Convention/Plaintiff in the Reconvention, then from 1986 until now Defendant I in the Convention/Plaintiff in the Reconvention has controlled and gardening on the a quo land without anyone making legal demands.
3. That Defendant I in the Convention/Plaintiff in the Reconvention made a Statement Letter dated 15 December 1991 witnessed by RT.01 and RW.01 and known to the Head of Bahtera Makmur Village Number: 225/BTM/1991 before making a valid letter issued from the Kubu Subdistrict Office . Supreme Court of the Republic of Indonesia

4. Whereas Plaintiff II (Sukijo) and Plaintiff III (Kadar) in the Convention/Defendants in the Reconvention in their lawsuit argument point 16 admitted to cutting down 600 (six hundred) rubber trees belonging to Defendant I in the Convention/Plaintiff in the Reconvention, so that Defendant I In the Convention/Plaintiff in the Reconvention suffered material losses of 600 X Rp. 1,000,000,-= Rp. 600,000,000, (six hundred million rupiah), in accordance with the complaint of Defendant I in the Convention/Plaintiff in the Reconvention based on Police Report Number: LP/B/57/V/2023/SPKT/POLSEK BAGAN SINEMBAH/POLRES ROKAN HILIR/POLDA RIAU May 02, 2023.
5. That the actions of Plaintiff II (Br. Sukijo) and Plaintiff III (Br. Kadar) in the Convention/Reconvention Defendants who cut down rubber trees belonging to Defendant I in the Convention/Plaintiff in the Reconvention have been processed from the Bagan Sinembah Police investigation level to the Court's decision. Rokan Hilir Country, so Plaintiff III (Br. Kadar) in the Convention/Defendant in Reconvention has been detained, while Plaintiff II (Br. Sukijo) In the Convention/Defendant in the Reconvention, the Bagan Sinembah Police are still investigating.
6. That the Plaintiffs in the Reconvention/Defendants in the Convention have been materially harmed amounting to Rp. 100,000,000, (one hundred million rupiah) because they had to hire/pay a Lawyer/Advocate to resolve their land problem and have been immaterially harmed in the amount of Rp. 50,000,000, - (fifty million rupiah) because physically and morally the minds of the Defendants in the Convention/Plaintiffs in the Reconvention are centered on land issues whose property is being sued by the Plaintiffs in the Convention/Defendants in the Reconvention.
7. That in order for the Defendants in the Reconvention/Plaintiffs in the Convention to be serious about implementing the decision in this case, it is appropriate and very legal if the Defendants in the Reconvention/Plaintiffs in the Convention are each sentenced to pay forced money (dwangsom) IDR 100,000 (one hundred thousand rupiah) per day if the Defendants in the Reconvention/Plaintiffs in the Convention fail to implement the decision in this case. Based on the descriptions and reasons mentioned above, the Defendants in the Convention/Plaintiffs in the Reconvention request that the Panel of Judges at the Rokan Hilir District Court be pleased to examine, try and decide this case with the following verdict:

At the convention**In exception**

Accepting the Defendants' Exceptions in their entirety.

In The Subject Of The Case

1. Reject the Plaintiffs' Claim in its entirety.
2. Sentence the Plaintiffs to pay the costs of this case.

In Reconvention

1. Grant the claim of the Plaintiffs in the Reconvention/Defendants (Defendant I and Defendant II) in the Convention in its entirety.
2. Declare as legally valid the Statement Letter dated 15 December 1991 witnessed by RT.01 and RW.01 and acknowledged by the Head of Bahtera Makmur Village Number: 225/BTM/1991 in the name of Samsi.

3. Declare legally that Defendant I in the Convention/Plaintiff in the Reconvention is the legal land owner of the a quo land, covering an area of 10,000 M2 (ten thousand square meters) according to the Statement Letter dated 15 December 1991 witnessed by RT.01 and RW.01 and known to the Head of Bahtera Makmur Village, Number: 225/BTM/1991, on behalf of Samsi (Defendant I in the Convention/Plaintiff in the Reconvention)
4. Sentence Plaintiff II and Plaintiff III in the Convention/Defendants in the Reconvention to pay material losses amounting to IDR 700,000,000 (seven hundred million rupiah) in cash and immediately. Supreme Court of the Republic of Indonesia.
5. Sentencing the Plaintiffs in the Convention/Defendants in the Reconvention to pay forced money (dwangsom) amounting to Rp. 100,000,- (one hundred thousand rupiah) every day to the Plaintiffs in the Reconvention/Defendants in the Convention if the Plaintiffs in the Convention/Defendants in the Reconvention failure to implement the judge's decision which has permanent legal force.
6. States that this decision can be implemented first even though there are legal remedies for appeal, cassation or judicial review (Uitvoerbaar bij voorrad).
7. Sentence the Plaintiffs in the Convention/Defendants in the Reconvention to pay the costs in this case.

Concerning Legal Considerations

In Exception

Considering that regarding the lawsuit filed by Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI, Defendant I and Defendant II in their answer, apart from filing an answer in the main case, have also submitted the following exceptions:

1. Exception regarding claims for lack of parties (plurium litis consortium); Supreme Court of the Republic of Indonesia
2. Exception regarding the lawsuit ne bis in idem;
3. Exceptions regarding vague and unclear claims (obscuur libels);
4. Exception regarding expired claims (Verjaring). Considering that the arguments for these exceptions, the following will be considered:

Ad.1. Exception regarding claims for lack of parties (plurium litis consortium).

Considering that Defendant I and Defendant II in their exceptions argue as follows:

- Whereas the Plaintiffs argue that the sale and purchase of the object of dispute was carried out by Mrs. Sani (the parents of Plaintiff I and the grandmother of Plaintiffs II, III, IV, V, VI) with Br. Zaham in 1985 at a price of IDR 850,000 (eight hundred and fifty thousand rupiah);
- Whereas the Plaintiffs did not place Plaintiff III (Kadar) as Defendant in the lawsuit because they had a Certificate of Compensation (SKGR) registered Number: 142/SKGR/BM/2005 dated 28 August 2005 on the land belonging to Mrs. Sani and did not include Br. Amri Siregar, Br. Wendi, who owns a house and/or gardens on land belonging to Sani's mother as the Defendant, is a formal disability;
- Whereas based on MARI's decision Number: 4348 K/Pdt/2022 dated 13 December 2022 page 8, because the a quo land sale and purchase is a private sale and purchase of land objects that have not been certified, the seller (Br. Zaham) must be included as the Defendant. Because the Plaintiffs' lawsuit is formally flawed, legally the Plaintiffs' lawsuit must be rejected or declared unacceptable (Niet Onvankelijk Verklaard).

Considering that regarding the above exception argument, through its reply Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI responded as follows:

- That the Plaintiffs firmly deny and reject all the arguments put forward by the Defendants in their memorandum of exception which basically argues that the Plaintiffs' lawsuit contains a formal defect in the form of lack of parties (*plurium litis consortium*) because there are still other parties who are not withdrawn as a party in the *a quo* case;
- Whereas according to the Defendants, there are still other parties who must be withdrawn as parties in the *a quo* case, namely Amri Siregar and Wendi who own a house and garden on the plot of land subject to dispute. The Plaintiffs firmly deny and reject the Defendants' exception argument because currently the land plot of the disputed object is actually controlled by Defendant I, so the Plaintiffs are only legally obliged to withdraw Defendant I as a party in the *a quo* case (*vide* Jurisprudence of the Supreme Court of the Republic of Indonesia Number : 437 K/Sip/1973 dated 9 December 1975 with the legal principle "People who legally control the object of the dispute must be sued"). Moreover, between the Plaintiffs and Amri Siregar and Wendi there was no legal dispute (*vide* Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 4 K/Sip/1958 with the legal rule: "The material requirement for suing someone before the court is the existence of a legal dispute between the two parties ");
- Whereas regarding the Defendants' exception argument which argues that the Plaintiffs must withdraw Plaintiff III as the Defendant in the *a quo* case with the argument that Plaintiff III also has a certificate of title to the disputed land plot in the form of a Certificate of Compensation dated 28 August 2005, the Plaintiffs emphatically refutes and rejects the Defendants' exception argument because as stated in the Plaintiffs' lawsuit, it has clearly and unambiguously explained that the land plot subject to dispute is the property right of the deceased Sani which he obtained based on the Land Certificate dated January 1 1985, because the deceased Sani had died, the position of the deceased Sani in filing the *a quo* lawsuit was replaced by Plaintiff I as his heir (his biological child) together with Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI are the successor heirs of the late Sarni who are also the biological children of the late Sarni. Thus, Plaintiff III has the legal standing to act as one of the Plaintiffs in the *a quo* case;
- Whereas regarding the Defendants' exception argument which argues that the Plaintiffs must withdraw Zaham as the Defendant in the *a quo* case with the argument that Zaham was the source of the late Sani's acquisition of the disputed plot of land as explained in the Land Certificate dated January 1 1985, the Plaintiffs with firmly deny and reject the Defendants' exception argument;
- That the Circular Letter of the Supreme Court of the Republic of Indonesia Number 10 of 2020 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2022 as a Guide to the Implementation of Duties for the Court, in letter B Legal Formulation of the Civil Chamber, number 1 Claims for Lack of Parties in Land Cases, in letter b reads "If an exception is filed regarding a claim for lack of parties, because the plaintiff does not attract the seller as a party to the land of the sale and purchase object which has not been certified in the name of the seller and/or the sale and purchase was carried out privately, then the exception can be accepted", where the legal rule in the Supreme Court Circular Letter is in line and congruent with the jurisprudence of the Supreme Court of the Republic of Indonesia Number: 2752 K/Pdt/1983 dated 12 December 1988 with the legal rule "Formally the third party must be sued by the defendant from whom the land in question was obtained."
”;

- Whereas, the legal obligation of the Plaintiffs to attract other parties as parties in the a quo case is only limited to the sources of acquisition of Defendant I of the disputed object of land if the transfer of the disputed object of land to Defendant I is carried out privately, rather than withdrawing the source of acquisition the Plaintiffs (ic. the late Zaham) over the land plot subject to dispute; Supreme Court of the Republic of Indonesia- That therefore, the Defendants' exception argument has legal grounds to be rejected or at least set aside. Considering that Defendant I and Defendant II have submitted duplicates in essence, Defendant I and Defendant II remain with their exception arguments; Considering the conflicting situation, the Panel of Judges gave the following considerations:
- Considering that the exceptional material relating to the lack of parties in the construction of a lawsuit is the existence of a legal subject which is exceptionally and in principle related to a legal event, however the legal subject is not drawn as a party or one of the parties seated in the aquo case;
- Considering that the lack of legal subject matter affects the completeness of the formal requirements of a lawsuit; Considering that although the Plaintiff has the right to sue anyone who is deemed to be detrimental to his rights as stated in the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 2471 K/Sip/1981, the importance of the completeness of the parties who are drawn as parties in a case is so that there are no obstacles in the execution process. case and to resolve the issues in the case. In the event that there are parties who are considered to be interested in a case, but who are not withdrawn as parties, this could give rise to new legal problems or result in decisions whose contents are contradictory;
- Considering that the exceptional material relating to the lack of parties in the construction of a lawsuit is the existence of a legal subject which is exceptionally and in principle related to a legal event, however the legal subject is not drawn as a party or one of the parties seated in the aquo case;
- Considering that the lack of legal subject matter affects the completeness of the formal requirements of a lawsuit; Considering that although the Plaintiff has the right to sue anyone who is deemed to be detrimental to his rights as stated in the Jurisprudence of the Supreme Court of the Republic of Indonesia Number: 2471 K/Sip/1981, the importance of the completeness of the parties who are drawn as parties in a case is so that there are no obstacles in the execution process. case and to resolve the issues in the case. In the event that there are parties who are considered to be interested in a case, but who are not withdrawn as parties, this could give rise to new legal problems or result in decisions whose contents are contradictory;

Zaham was not included as a Defendant in the a quo case so that the resolution of the dispute could not be completed;

- Considering that in the lawsuit, Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI basically argue that on January 1, 1985 the late Sani purchased an empty plot of land from the late Zaham measuring 31,380 m² (thirty-one thousand three hundred eighty square meters) with a loss compensation fee of IDR 850,000 (eight hundred and fifty thousand rupiah) located on Jl. Simpang Ilmu, RT. I, RW. I, Bangun Rejo Hamlet, Bahtera Makmur Village, Kubu District, Bengkalis Regency, Riau Province, as explained in the Land Certificate dated January 1 1985 which was witnessed by the land administrators and known to the local RT Head and RW Head;
- Considering that from the arguments of the lawsuit above, it can be concluded that the buying and selling carried out by the late Sani and the late Zaham was an underhanded sale and purchase; Considering that because in the a quo lawsuit, Plaintiff I, Plaintiff II,

Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI did not withdraw the seller in casu, the late Zaham and/or his heirs as parties to the land object of sale and purchase which had not been certified in the name of the seller and/or the sale and purchase is carried out privately, then based on the legal rules contained in number 1 letter b Legal Formula of the Civil Chamber of the Supreme Court Circular Letter Number 10 of 2020 linked to the Decision of the Supreme Court of the Republic of Indonesia Number 4348 K/Pdt/2022 dated 13 December 2022 in conjunction with Pekanbaru High Court Decision Number 74/Pdt/2021/PT PBR dated 3 June 2021, the exceptions of Defendant I and Defendant II regarding the claim for lack of parties (*plurium litis consortium*) are reasonable to be granted;

- Considering that by granting this exception, other exceptions do not need to be considered further.

In the Main Case

- Considering that because there are exception arguments that are granted, the main material of the case does not need to be considered again and the claims of Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI must be declared inadmissible (*niet ontvankelijke verklaard*);
- Considering that because the lawsuit was declared unacceptable (*niet ontvankelijke verklaard*), Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI are sentenced to pay court costs, the amount of which will be determined in this decision;
- Pay attention to the provisions in RBg, Law Number 48 of 2009 concerning Judicial Power and other relevant regulations;

Judge:

In Exception

Granted the exception of Defendant I and Defendant II regarding the claim for lack of parties (*plurium litis consortium*). In the Main Case

1. Declare that the claims of Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI are unacceptable (*niet ontvankelijke verklaard*);
2. Sentence Plaintiff I, Plaintiff II, Plaintiff III, Plaintiff IV, Plaintiff V and Plaintiff VI to pay court costs in the amount of Rp. 1,603,000.00 (One million six hundred and three thousand rupiah).

Author's Analysis:

In connection with the land dispute case between the plaintiff and the defendant, the author can conclude that: the lawsuit dated 22 September 2023 which was received and registered at the Registrar's Office of the Rokan Hilir District Court on 25 September 2023 with Register Number 42/Pdt.G/2023/PN Rhl, no can be accepted (*niet ontvankelijke verklaard*) by the judge for several reasons, including: the plaintiff's claim against the defendants regarding the same object has occurred in Rokan Hilir District Court with Decision Number 34/Pdt.G/2020/PN.Rhl up to the Cassation level at the Supreme Court, so that in accordance with MARI's decision Number: 4348 K/Pdt/2022 dated 13 December 2022 that the case has been decided and has permanent legal force. This is in accordance with the provisions of Article 1917 of the Civil Code, which states "The power of a judge's decision which has acquired absolute force is not wider than just the matter of the decision. In order to promote this power, it is necessary that the matter demanded is the same, that the demands are based on the same reasons, and are advanced by and against the same parties in the same relationship."

This means that a case that has been decided by a previous judge and has obtained legal force cannot still be sued again with the same subject and object. Whereas the MARI decision

Number: 647/K/sip/1973 states: "Whether or not the principle of ne bis in idem exists is not solely determined by the parties, but primarily that the object of the dispute has been given a certain status by an earlier Court decision. and has permanent legal force." So the judge has the right to reject or not accept a lawsuit from the plaintiff against the plaintiff for a lawsuit where both the subject and object are the same.

CONCLUSION

Application of the Defendant's Unlawful Actions in the Plaintiff's Land Rights Dispute which was Rejected by the Rokan Hilir District Court (Niet Onvankelijk Verklaard) for NeBis In Idem Reasons based on Supreme Court Decision Number: 4348 K/Pdt/2022 and Decision Number 42/Pdt.G/2023 /PN Rhl) is correct and appropriate. The plaintiff's lawsuit against the defendants regarding the same object occurred at the Rokan Hilir District Court with Decision Number 34/Pdt.G/2020/PN.Rhl up to the cassation level at the Supreme Court, so it is in accordance with MARI's decision Number: 4348 K/Pdt/2022 December 13, 2022 that the case has been decided and has permanent legal force. The provisions of Article 1917 of the Civil Code, which states "The power of a judge's decision which has acquired absolute force is not wider than just the matter of the decision. In order to promote this power, it is necessary that the matter demanded is the same, that the demands are based on the same reasons, and are advanced by and against the same parties in the same relationship." This means that a case that has been decided by a previous judge and has obtained legal force cannot still be sued again with the same subject and object. Whereas the MARI decision Number: 647/K/sip/1973 states: "Whether or not the principle of ne bis in idem exists is not solely determined by the parties, but primarily that the object of the dispute has been given a certain status by an earlier Court decision. and has permanent legal force." So the judge has the right to reject or not accept a lawsuit from the plaintiff against the plaintiff for a lawsuit where both the subject and object are the same.

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