

Navigating State Administrative Decrees: Legal Strategies for Protecting Land Rights in Nusa Penida

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Abstract:

This writing focuses on providing legal assistance to the Nusa Penida community regarding land rights disputes, particularly those arising from a State Administrative decree. The activity involves analyzing State Administrative dispute cases to assess the impact of the decree on the community's land. Legal assistance is provided to enhance the community's understanding of the decree's implications and the steps they can take to assert their land rights. The methods used include case analysis, direct assistance, and field visits. The findings highlight the importance of raising legal awareness within the community and empowering them to actively fight for their land rights. Key actions include filing administrative objections and pursuing lawsuits in court when necessary. The intervention demonstrated how legal assistance can alleviate community concerns by offering clear, actionable steps to address the issues. This activity also underscores the complexity of land disputes in Nusa Penida, especially regarding pipil land, and the potential conflicts that may arise if these disputes are not resolved promptly and effectively.

Keywords: Land Rights; State Administrative Disputes; Legal Assistance.

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Introduction

In today's rapidly evolving world, land has become a fundamental and essential resource. It is a critical factor that influences various aspects of human life, including economic development, social stability, and environmental sustainability. The importance of land cannot be overstated, as it serves as the foundation for agriculture, housing, commerce, and industry. Consequently, the management of land and the resources contained within it must be carried out with utmost responsibility and foresight. Land management, as a significant potential asset, plays an integral role in achieving the national goals of fostering a just and prosperous society. These objectives

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align with the principles enshrined in Pancasila and the 1945 Constitution of Indonesia (Adrian Sutedi 2023).

Article 33, paragraph (3) of the 1945 Constitution explicitly states that the earth, water, and natural resources are controlled by the state, with the aim of ensuring the greatest benefit for the people. This article emphasizes the state's responsibility in regulating and managing land to ensure that it serves the welfare of society at large, rather than the interests of a few. As a result, the role of the government in land management becomes crucial, as it must ensure equitable access to land and prevent misuse or exploitation by private entities or individuals. The legal framework established under the 1945 Constitution serves as the basis for land governance in Indonesia, ensuring that land resources are used to benefit the entire nation.

In line with the constitutional mandate, the Indonesian government enacted Law Number 5 of 1960, also known as the Basic Agrarian Law (UUPA), on September 24, 1960. This legislation was a milestone in the development of land law in Indonesia, as it provided a comprehensive legal framework for land administration and land rights. One of the primary objectives of the Basic Agrarian Law was to establish legal certainty and clarity regarding land ownership and rights for the people of Indonesia. Prior to the enactment of the law, the legal landscape concerning land rights was often fragmented, leading to confusion and disputes over land ownership and use. By instituting a uniform system for recognizing and documenting land rights, the UUPA aimed to eliminate these ambiguities and create a more orderly and transparent system for land governance (Antari and Farhansyach 2024).

The Basic Agrarian Law also laid the foundation for land registration as a means of ensuring legal certainty. Land registration serves as the official documentation of land ownership, providing landowners with the legal recognition and protection of their rights. Under the UUPA, the government was tasked with establishing a national system for land registration, which would be administered by the National Land Agency (BPN). This system has proven to be a vital tool in ensuring that land rights are clearly defined and protected, preventing disputes and promoting the fair use of land.

In addition to the implementation of the Basic Agrarian Law, Indonesia's legal framework for land management also encompasses mechanisms for resolving land-

related disputes. One such mechanism involves the provision of legal services and assistance to individuals and organizations facing land conflicts. The Consultants Law Firm, through its community service initiatives, plays a key role in offering legal aid and protection to individuals experiencing land-related issues. Legal protection in this context often involves resolving state administrative disputes, which arise from decisions made by state administrative authorities. These disputes can have significant consequences for landowners and communities, as they often involve the legal status or use of land (Audinda 2025).

State administrative disputes typically arise when a decision or action taken by a state administrative agency or official is contested by an individual or legal entity. These disputes can be resolved through the State Administrative Court (PTUN), a specialized court established to handle cases related to state administrative decisions. The PTUN is a distinct judicial body from the general court system, which handles criminal and civil matters. The establishment of the State Administrative Court in 1986, through Law Number 5 of 1986 (later amended by Law Number 9 of 2004), was a significant development in Indonesia's legal system. This court was designed to address issues related to administrative actions and decisions, particularly those involving land rights and use (Bunga 2018).

The creation of the State Administrative Court was motivated by the need for a legal forum where individuals and organizations could challenge decisions made by administrative bodies. In the realm of land management, these disputes often relate to issues such as land use permits, zoning regulations, and the allocation of land for public or private purposes. The PTUN provides an avenue for resolving these disputes in a fair and impartial manner, ensuring that state decisions are in line with the law and principles of good governance.

Despite the establishment of specialized courts and legal protections, land-related disputes remain a persistent challenge in Indonesia. A significant issue is the lack of awareness among the public regarding the legal provisions and procedures for protecting land rights. Many individuals are unfamiliar with the complexities of land law, which can lead to a reluctance to take legal action when their rights are violated. This gap in legal knowledge often results in the violation of the General Principles of Good Governance (AUPB), which are fundamental to ensuring fairness, transparency, and

accountability in administrative processes. As a result, individuals may ignore or overlook issues related to state administrative decisions, allowing injustices to persist (HasbiIsmail 2018).

Furthermore, land disputes are not limited to issues with government authorities. Private parties, such as individuals or corporations, may also be involved in conflicts over land ownership, use, or inheritance. These disputes can arise due to unclear land boundaries, improper documentation, or disagreements over the interpretation of land rights. In some cases, landowners may face encroachment or unlawful occupation of their land, leading to further complications. Resolving these issues often requires legal expertise and a thorough understanding of the relevant laws and regulations (Mustari et al. 2023).

Land registration is a critical element of the legal framework that underpins land management and ownership in Indonesia. The Basic Agrarian Law mandates that all land rights be officially registered with the relevant authorities, ensuring that landowners have legal recognition of their property rights. The process of land registration, which is carried out by the BPN and local land offices, helps establish legal certainty by documenting ownership and other rights associated with the land. This system of registration is essential for preventing disputes and providing legal protection to landowners.

The benefits of land registration extend beyond individual landowners. By clearly defining land ownership and rights, land registration helps reduce the potential for conflicts over land use. In densely populated areas or regions with high land demand, such as urban centers, clear land titles and documentation are crucial in managing land resources efficiently. Land registration also plays an important role in ensuring that land is used for its designated purposes, whether for residential, agricultural, or commercial activities (NEGARA, n.d.).

In addition to providing legal protection, land registration also supports the broader goals of economic development and social welfare. By creating a transparent system for land ownership, land registration promotes investment and encourages the efficient use of land resources. In rural areas, it can help prevent land disputes between

farmers and facilitate land transactions. In urban areas, it can support development projects and help ensure that land is allocated for public infrastructure and services.

Legal assistance and support are vital in addressing land-related disputes and ensuring that land rights are protected. Through community service activities, such as those provided by the Consultants Law Firm, individuals and communities can access the legal resources they need to resolve land disputes and assert their rights. In areas like Nusa Penida, where land issues are particularly prevalent, the provision of legal services is essential in helping residents navigate complex land laws and secure their land rights (Nurjannah and Muin 2016).

Land management, legal certainty, and the protection of land rights are essential elements of a just and prosperous society. By adhering to the principles set forth in the 1945 Constitution and the Basic Agrarian Law, Indonesia can ensure that land is used responsibly and equitably. Through effective legal frameworks and dispute resolution mechanisms, land-related issues can be addressed in a manner that benefits all stakeholders and supports national development.

Methods

The research method used through several stages. The first stage is observation and discussion, which is conducted with staff from the Law Consultant Office regarding cases in the field of state administration. The primary focus at this stage is to identify and understand state administration cases that are relevant to the needs of the community. The next stage involves research and the collection of legal materials related to state administration cases, followed by discussions with the staff from the Law Consultant Office to ensure that the materials collected are appropriate and accurate for presentation to the community. The final stage is the implementation phase, which includes providing direct legal assistance to the people of Nusa Penida. During this stage, legal assistance is given with the goal of educating the community about their land rights and the legal steps they can take to defend those rights. This method is designed to provide a systematic approach to solving the legal issues faced by the community, involving legal professionals to ensure its accuracy and effectiveness.

Result and Discussion

The mentoring program carried out for the Nusa Penida community to fight for their land rights related to the protected forest decree was successfully implemented on June 12, 2024, with the support of the Consultants Law Firm and the supervising lecturer. This assistance is essential for equipping the community with the knowledge and strategies necessary for handling land-related issues, especially when dealing with legal challenges stemming from state administrative decisions (Tome & Dungga, 2023). The material shared during this program was not only informative but also served as a reminder of the significant impacts that state administrative decisions, such as decrees, can have on the community. The delivery of this material was well-received, as it provided an opportunity to share important legal knowledge that can help the community understand their rights and obligations in the face of such disputes.

The joint effort with the Consultants Law Firm aimed to provide direct legal assistance to the people of Nusa Penida, ensuring that they are better prepared to avoid land disputes, particularly those related to state-issued decrees that may affect their property rights. The program's goal was to empower the community with the legal understanding necessary to protect their land rights in the future (Pangemanan 2013).

The results of observations conducted by the community service team revealed that multiple individuals in Nusa Penida were experiencing state administrative disputes. The primary issue involved a decree issued by the Ministry of Environment and Forestry of the Republic of Indonesia, Number: SK.10340/MENLHK-PSKL/PKPS/PSL.0/12/2022, which granted Village Forest Management Approval to the Sakti Village Institution, covering an area of approximately 33 hectares located in the Protected Forest Area in Sakti Village, Nusa Penida District, Klungkung Regency, Bali Province. This decree, issued on December 27, 2022, by the relevant state administrative official, became the subject of dispute for the community, who argued that it had significant detrimental consequences for their land and property rights.

The community, who are legal landowners of the affected properties, claimed that the issuance of the decree violated their rights and created a legal conflict that required resolution through the State Administrative Court. The dispute centers on the question of whether the land designated as Village Forest truly meets the criteria for a Protected Forest Area. The land in question, which is located on a coastal cliff, consists of hard limestone, sparsely covered with dry bushes that do not fulfill the environmental role of

a protected forest. The area is also of strategic importance to investors, making it less of a natural forest and more of a dry, unproductive space during the dry season (Yunarko 2013).

The legal battle began when the community members, as plaintiffs, filed a lawsuit due to the land's classification as a Village Forest despite it not meeting the criteria for such an area. They argued that the land was not suitable for a forest designation, as it was predominantly barren and lacked the ecological qualities of a Protected Forest Area. The presence of only dry bushes and a few small trees undermined the claim that it could be used to protect the environment in the same way that a protected forest would.

One of the primary reasons for the dispute was the unclear and possibly misleading purpose behind the establishment of the Sakti Village Institution. The community suspected that the institution's application for Village Forest status was a cover-up intended to seize control of valuable land for tourism development. This suspicion was fueled by previous actions taken by the institution, which had aggressively claimed land for the purpose of creating a road to a nearby beach for tourism access. The community believed that the Sakti Village Institution was attempting to disguise a land grab under the guise of a forest management project, which led them to challenge the decree in court.

The land in question, located on a coastal cliff, was deemed unsuitable for forestation and instead had significant potential for tourism development. The community had long intended to utilize the land for tourism purposes, and its residents had oriented their economic activities around the growing tourism industry in the area. This further reinforced the community's claim that the land could not be managed as a Village Forest, as the primary use of the area was already being directed toward tourism development (Dewi, Handayani, and Najicha 2020).

In light of these issues, the legal assistance provided by the Consultants Law Firm was crucial in helping the community understand the underlying legal principles and strategies to defend their land rights. The law firm, through its joint effort with the community, aimed to increase awareness of the legal challenges faced by the community and provide them with the necessary tools to contest the decree effectively.

During the implementation of the mentoring program, several key materials were delivered to the community to enhance their understanding of the legal process and empower them to take action. These materials included:

1. Impact of the Forest Protection Decree on Community Land Rights

Land rights are critical to the livelihoods of rural communities, particularly for those who rely on land for agriculture, housing, and other essential activities. In the context of the community service activities carried out, the Consultants Law Firm emphasized the importance of raising awareness among community members regarding the potential impacts of the Forest Protection Decree on their land rights. This decree, a significant legal instrument for forest protection and environmental conservation, can have profound consequences for landowners, especially those living near protected forest areas. One of the most significant effects of the decree is the potential revocation of community land rights, resulting in the loss of ownership and control over land that is crucial for their daily life and survival (Fajar, Aloysius, and Dinata 2024).

When faced with such legal threats, community members often find themselves in a vulnerable position. The loss of land is not just a legal or financial matter—it deeply affects the community's way of life, their economic security, and their sense of identity. For many, this land has been passed down through generations, making it a fundamental part of their heritage. Therefore, understanding the full impact of such decrees on land rights is essential, as the consequences extend far beyond the immediate legal effects and disrupt the very fabric of the community.

In many cases, the affected land is not officially registered with the National Land Agency (BPN), which adds further complications to the process of proving ownership. A prime example of this is Pipil, a type of land that holds both historical and legal significance. Pipil refers to land traditionally owned and used by indigenous communities, often since the colonial era, but it has not been formally registered with the BPN or converted into a legal title. As a result, this land is not recognized through official certification, making it difficult for community members to defend their land rights in legal proceedings, especially when these rights are challenged by external entities such as the government or private developers (Farina et al. 2024).

Despite the lack of official certification, Pipil remains a vital form of land ownership within the community. It is regarded as legitimate proof of land ownership

by local customs and practices, and it continues to serve as a legal document in the eyes of the community. According to the Basic Agrarian Law, land ownership does not always require certification if other forms of evidence, such as Pipil, are available. Therefore, even without formal registration, Pipil can act as valid evidence in legal disputes, especially when ownership is questioned by outside authorities or parties.

However, the lack of official certification creates challenges when defending land rights in formal legal settings. If a decree such as the Forest Protection Decree is issued, claiming ownership over land traditionally held by the community, the absence of land registration weakens the community's position in proving ownership. In such cases, the community may struggle to assert their rights in court, particularly against more powerful entities such as government agencies or private companies with formal legal documentation (Gusliana and Hanifah 2016).

The impact of legal actions like the Forest Protection Decree extends beyond the immediate loss of land. Protracted disputes over land rights can escalate into more complex conflicts that are difficult to resolve. The longer a dispute remains unresolved, the more entrenched the positions of the parties involved become. This can lead to a prolonged cycle of legal battles, draining valuable time, resources, and energy that could otherwise be spent on community development and progress. Furthermore, unresolved land disputes often lead to social unrest and division within the community, as individuals or groups may feel that their rights are being violated or disregarded.

The complexity of land disputes, particularly those related to the Forest Protection Decree, highlights the need for immediate legal intervention. Without prompt and effective assistance, the community risks facing more severe consequences, such as the permanent loss of their land, the disruption of their livelihoods, and the deterioration of social cohesion. In this context, the role of legal professionals, such as those from the Consultants Law Firm, is crucial. By providing timely and expert legal support, these professionals help communities understand their rights and navigate the complexities of land disputes (Herman 2021).

The community service activities carried out in partnership with the Consultants Law Firm aim to provide the Nusa Penida community, as well as other communities facing similar challenges, with the legal resources necessary to protect their land rights. By raising awareness of the potential consequences of legal actions such as the Forest

Protection Decree, the program empowers community members to take proactive steps in defending their land rights. Through case analysis, legal workshops, and on-site support, the community gains a deeper understanding of the legal processes involved and the specific actions they can take to protect their land.

Additionally, the project underscores the importance of legal literacy in the broader context of land rights protection. Community members must be informed about the legal tools available to them, such as filing administrative objections, initiating lawsuits, and seeking legal counsel when necessary. The project emphasizes that legal intervention is not only a means of protecting individual rights but also an essential step in preserving the collective well-being of the entire community. By engaging with the legal system, the community can strengthen their position and ensure that their land rights are upheld (Simbala, Lumintang, and Gosal 2024).

In the face of potential land disputes arising from decrees like the Forest Protection Decree, it is essential for communities to fully understand their legal rights and the actions they can take to secure those rights. Providing legal education and support is key to empowering these communities, enabling them to respond effectively to challenges and assert their land ownership against external legal pressures. By educating and equipping the community with the necessary legal knowledge, they can work towards preserving their land rights, protecting their livelihoods, and maintaining their cultural heritage for future generations. Through this process, communities are empowered to navigate legal challenges and safeguard their land for years to come.

2. Participation That Can Be Done by the Community in Fighting for Their Land Rights Related to the Protected Forest Decree.

In the context of community service activities designed to support the Nusa Penida community in defending their land rights, one of the key forms of legal assistance provided was the dissemination of information on the steps that the community can take to protect their land ownership. When facing challenges such as the Protected Forest Decree, the community can engage in several legal actions to assert their rights. One of the first and most important steps is filing an administrative objection to the relevant Environmental and Forestry Officer. This is often the initial approach in resolving a state

administrative dispute and must be explored before taking further legal action (Sylviani 2008).

As outlined in Article 1, number 16 of Law Number 30 of 2014 concerning Government Administration, administrative efforts refer to the process of resolving disputes within the government administration framework that arise from a decision or action detrimental to one party. The law specifies that this administrative process begins with filing an objection and appealing the decision through the appropriate channels. The community can utilize this process to challenge the revocation or confiscation of their land based on government decisions, such as those made by the Environmental and Forestry Officer under the Forest Protection Decree (Harnadi 2018).

Furthermore, Article 48 of Law Number 5 of 1986 concerning State Administrative Courts states that administrative efforts can be pursued by individuals or civil legal entities, providing a clear legal pathway for the community to contest government decisions that negatively impact their land rights. The materials presented to the Nusa Penida community during the legal assistance session covered several crucial steps that can be taken to challenge decisions related to land ownership and the Forest Protection Decree.

1. Certificate Validity Check at the National Land Agency

One of the primary actions the community can take is to verify the validity of their land certificates at the National Land Agency (BPN). This process involves checking physical data and legal information stored in maps, land lists, measurement letters, and land books, as required by Article 34 of Government Regulation Number 24 of 1997 concerning Land Registration. By confirming the validity of their certificates, the community can determine whether their land ownership is legally recognized and identify any potential overlapping claims that need to be addressed. This step is vital for gathering proof of ownership before proceeding with additional legal actions.

2. Filing Complaints Regarding Land Disputes

According to Article 1, number 5 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 11 of 2016, complaints regarding land disputes can be filed by parties who feel their rights

have been violated. These complaints can be submitted to the Ministry of Agrarian Affairs, the National Land Agency, or the relevant land office, which has the authority to handle such issues. By filing a complaint, the community can formally object to any actions that may be detrimental to their land rights, such as the illegal seizure of land under the Forest Protection Decree.

3. Filing an Administrative Objection

Another step the community can take is to file an administrative objection to the government agency or official who issued the detrimental decision. As stipulated in Article 76, paragraph 1 of Law Number 30 of 2014, an administrative objection can be raised when a decision or action from a government entity negatively affects the community. This allows the community to challenge decisions and seek resolution before taking the issue to court.

If the administrative objection process does not lead to a satisfactory resolution, the community can escalate the matter by filing a lawsuit in court. Article 78 of Law Number 30 of 2014 concerning Government Administration specifies that decisions made by government officials can be appealed in court within a maximum of 10 days after receiving the appeal decision. The court serves as the final authority in resolving state administrative disputes, ensuring that the legal rights of individuals and communities are upheld (Isman, Warman, and Andora 2023).

The community's participation in this process is crucial to defending their land rights and ensuring that any adverse decisions made under the Forest Protection Decree are challenged effectively. By utilizing the administrative objection process and, if necessary, pursuing legal action through the courts, the community can protect their land from being unjustly taken or revoked. This legal pathway is vital in preventing the erosion of their land rights and ensuring that they have a chance to present their case within the framework of the law (Kurniawan and Rahman 2022).

Through this process, the community is not only safeguarding their land but also asserting their legal rights within the broader framework of Indonesian administrative law. The importance of legal awareness and community participation in these steps cannot be overstated, as it provides a means of addressing the negative impacts of

government decrees that threaten the land rights of local populations (Mulyani et al. 2023).

Conclusion

This service helps the Nusa Penida residents who are affected by the decree on community land, emphasizing the urgency of addressing the issue promptly. Failing to do so could lead to more serious consequences in the future, making the situation more difficult to resolve. The community can participate in this process by reporting to environmental and forestry officials through filing administrative objections, which includes submitting objections and administrative appeals. If no resolution is achieved through these administrative channels, the final recourse is to initiate a lawsuit in court. On June 12, 2024, as part of community service activities, assistance was provided to the Nusa Penida community to defend their land rights, which have been affected by a recent decree. This service is designed to enhance the community's understanding of the applicable laws and regulations, thereby enabling them to better protect their property rights, particularly their rights to land. The initiative is intended to support those impacted by the decree on community land, emphasizing the need for immediate action to prevent more severe consequences in the future. The program encourages active community participation by advising residents to report concerns to the relevant environmental and forestry officials. This can be done by filing administrative objections, which include both objections and administrative appeals. Should these administrative measures fail to resolve the issues satisfactorily, the community is informed that the final recourse is to file a lawsuit in court.

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