
Implementation of The Plantation Production Sharing Agreement in The Unwritten Agreement Form

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Abstract

This study aims to identify and analyze the implementation of the plantation production sharing agreement in Nalahia Village, Central Maluku. This research is socio-legal research, which is a combination research method between doctrinal law research methods and empirical legal research methods. This research was conducted in Nalahia Village, Nusalaut District, Central Maluku, with the sample being the people of Nalahia Village who had implemented a plantation production sharing agreement. This type of research data is primary data and secondary data obtained through literature study and interviews. Based on the results of the research, the agreement for plantation production in Nalahia Village, Maluku is carried out according to the habits of the Nalahia people since the time of the ancestors in an unwritten form between the plantation owner and the sharecropper based on mutual trust that is attached and is still maintained to this day. The owners of the plantations are the indigenous people of Nalahia Village, while the sharecroppers are mostly not indigenous people but live and settle in Nalahia. This plantation production sharing agreement was agreed with the percentage of the distribution of the plantation products was 50: 50. although at this time, the percentage of the distribution could be different according to the agreement of both parties. The implementation of this plantation production sharing agreement will end with the completion of the smallholders harvesting the plantation products belonging to the hamlet owners.

1. Introduction

For the people of Indonesia, land occupies an important position in their daily lives, especially for people who live in rural areas, the majority of whom work as farmers and farming, so land (in this case plantation land) has a primary role to depend on in their daily lives. good day for garden managers as well as for plantation landowners. The land is one of the most important natural resources, not only because of its function as a factor of production but also because of the implications of its social function, it is from the land that the production process in agriculture and farming begins and from the land the welfare of farmers and planters begins.

Humans are social beings who need each other so that one human cannot be separated from the other. Likewise, planters (managers) and landowners, are also two groups that are difficult to separate, planters (managers) will find it difficult to make a living without land and landowners, as well as landowners who need the power of planters (managers).), to create cooperation between one another and create a sense of mutual help between one another.

The principle of cooperation in economic law that is widely known is the principle of profit sharing. Agriculture and plantations as sectors that operate in the real sector are also inseparable from the principle of profit-sharing cooperation. On the one hand, some people own land and plantation products to be harvested, but are unable to manage and harvest them, on the other hand, some people do not own land and plantation products, but can be willing to harvest the plantation products so that with cooperation with the principle of profit-sharing, both parties can carry out a mutually beneficial cooperation system by empowering the land and agricultural and plantation products. The profit-sharing cooperation activity is carried out by agreement between the plantation owner and the harvester.

An agreement is a legal relationship between two or more parties based on an agreement that has legal consequences. The parties agree to determine the rules or regulations regarding the rights and obligations of each party in the

agreement.⁴Contract law exists to regulate and protect the rights and obligations of the parties.⁵

The Civil Code (hereinafter referred to as the Civil Code) is a source of formal law as well as a source of material law for contract law applicable in Indonesia. Agreements are specifically regulated in the Civil Code Book III, Chapter II concerning Engagements born from Contracts/Agreements and Chapters V to XVIII which regulate legal principles and norms of agreement law in general, as well as treaty legal norms that have special characteristics which are better known as named agreements.

The term agreement in Dutch is *overeenkomst*, while in English it is *contracting*.⁶An agreement according to Article 1313 of the Civil Code is an act by which one or more people bind themselves to one or more other people. To obtain an agreement, there must be at least two parties as legal subjects, where each party agrees to bind himself to carry out the agreement. Agreements must be made and implemented based on common sense based on respect for human moral values.⁷This is also related to the good faith that must be shown by the parties in the implementation of a business relationship, including an agreement.⁸

Plantation sharing agreement is an act of legal relationship regulated in customary law. A plantation sharing agreement according to customary law is an agreement that arises

⁴Josiah Hetharie. (2020). Default in Sea Transportation Agreement, *Law Research Review Quarterly*, 6(2), p. 181.

⁵Andrii Hryniak, Oleksii Kot, Mariana Pleniuk. (2018). Regulation Mechanism of Private Legal Contracting Relations in Civil Law, *Journal of Legal, Ethical and Regulatory Issues* 21, p. 1-14.

⁶Kie Tan Tong. (2007). *Notary Studies and Miscellaneous Notary Practices*, Jakarta: New Ichtiar. p. 402.

⁷Niru Anita Sinaga. (2018). The Role of Covenant Law Principles in Realizing the Purpose of the Agreement, *Journal of Bina Mulia Hukum*, 7 (2), p.108

⁸Pan Lindawati. (2019). Suherman Sewu, Good Faith as a Key Principle of Business Ethics to Franchise Agreement and Development in Indonesia, *Journal of Legal, Ethical and Regulatory Issues* 22 (1), p. 1-7.

in customary law communities between the owner of the plantation product land and another party who is willing to harvest the plantation product. In general, the procedures or rules for production sharing agreements on plantation management in customary law are carried out verbally between the owner of the plantation land and the harvester.

Profit-sharing business rights are one of the temporary land rights which are regulated based on the customary law of each local area. One of the weaknesses of profit-sharing agreements that use customary law is that the agreement is not made in writing but is based on the agreement of the parties so that it does not provide certainty regarding the size of the share and the rights and obligations of the parties.⁹In the production sharing agreement, the land is not the main objective, but agricultural products or plantation products on the land are the main purposes of implementing this agreement. However, the agricultural or plantation products have a relationship or are an integral part of the land.¹⁰

The cooperation system for the profit-sharing agreement is also carried out by the people of Negeri Nalahia, Nusalaut District, Central Maluku Regency. In the people of the State of Nalahia, cooperation in this profit-sharing agreement is usually carried out for clove, nutmeg, and coconut plantations. This profit-sharing agreement by the people of Nalahia is known as maano (plantation sharing).

2. Problem Statement

Based on the description of the background above, in this study, the problem to be studied is how to implement a plantation production sharing agreement for the community in Negeri Nalahia, Nusalaut District, Central Maluku.

⁹Rizka Nurmadany. (2016). Implementation of Agricultural Land Production Sharing Agreements in Sleman Regency, Thesis, Atmajaya University, Yogyakarta, p. 2.

¹⁰Suryaman Mustari Pide. (2014). Customary Law, Past, Present and Future, First Edition, Jakarta: Prenada Media Group, p. 148.

3. Method/ Approach

In this study, the type of research used is socio-legal research¹¹(Sociolegal research), which is a combination research method between doctrinal law research methods and empirical law research methods to identify the implementation of plantation production sharing agreements and the legal force of oral agreements in plantation production sharing agreements in the State of Nalazia, Central Maluku. The types of data in this research are primary data and secondary data. The data collection techniques used were literature study and interview techniques which were studied and analyzed in-depth to obtain a complete and in-depth conclusion in an analytical descriptive manner.

4. Discussion

The legal provisions regarding plantation production sharing agreements can be found in Law Number 2 of 1960 concerning Agricultural Land Production Sharing Agreements (hereinafter referred to as Law Number 2 of 1960).

This provision was born to regulate the agreement for the management of the use of agricultural/plantation land with a profit-sharing system so that in terms of the distribution of land products between the owner and the cultivator, it can be carried out fairly and properly and to provide a balanced legal position between the parties by clearly stipulating the rights and obligations of the owner and cultivator.

In the plantation production sharing agreement in the State of Nalazia, Central Maluku, the provisions governing the profit-sharing system in the provisions of Law Number 2 of 1960 are not implemented as stipulated in the law, because in principle, the people in the State of Nalazia, in implementing the agreement for the results of the plantation are only based on the element of trust alone. This means that the parties, mutually agree, trust each other to carry out the agreement for the production of this plantation.

¹¹Sulistiyowati Irianto. (2009). Legal Practice: Sociolegal Perspective, Jakarta: Obor Foundation, p. 308.

In general, plantation production sharing agreements based on Law Number 2 of 1960 are mostly implemented in communities on the island of Java and its surroundings, for example in Brebes Regency, Central Java, which follows the provisions of the Act.¹², in the sense that there is a plot of land belonging to the landowner which is then managed and worked on by the cultivator for agricultural activities, the results of which will then be divided according to the agreement with the landowner, and usually, most of it is stated in written form. This is very different from what is implemented in the Nalazia State community, where the profit-sharing agreement is not practiced as stipulated in Law Number 2 of 1960. The profit-sharing agreement in the Nalazia State is carried out in the form of a customary agreement, in which the landowner already has plantation products that are ready for harvest. The plantation products then become the object of the profit-sharing agreement with the sharecroppers to be worked on and divided according to an unwritten (oral) agreement.

4.1 The Subject and Object of the Profit Sharing Agreement on the Nalazia State Plantation, Central Maluku.

a. The Subject of the Plantation Profit Sharing Agreement

Legal subjects are supporters of rights and obligations. Subjects in contract law include legal subjects regulated in the Civil Code, in which the Civil Code itself divides legal subjects into 2 (two) parts, namely humans and legal entities. So that the person who agrees is not only in his position as a human/individual but also a legal entity.¹³

In a plantation production sharing agreement in the State of Nalazia, Central Maluku usually consists of 2 (two) parties. These two parties, reciprocally and need each other and are subject to the agreement made between them. The parties to the agreement for the production of plantations in the State of Nalazia, Central Maluku, are:

¹²Life Iko (2008), Implementation of agricultural land production sharing agreements in Bulakamba District, Brebes Regency, Central Java, Thesis, Diponegoro University, Semarang, p. 25.

¹³M. Husni. (2009). Overview of the Contract, Jakarta: Sinar Graphic, p. 86.

1) Plantation Owner

Based on Law Number 2 of 1960, what is meant by the owner is a certain person and/or legal entity based on a right to control the land, or in other words, the owner is the party who controls and has the right to the land and/or plantation products. Furthermore, the land referred to in Law Number 2 of 1960 is land that is indeed used for planting food ingredients. Apart from that, it is not bound by the law, for example, land that is usually used for livestock or fisheries.

In the agreement for the production of plantations in the State of Nalazia, Central Maluku, the owners are the people of the State of Nalazia who do have rights to the land or plantation land. Usually, the people who have rights to this land or plantation land are indigenous people from the State of Nalazia who own land in the form of a hamlet in which many plants can be harvested based on a plantation production sharing agreement.

When the harvest season arrives, the plantation owners (hamlets) if they provide only a small amount of plantation produce, plantation owners will harvest them themselves. However, if his plantation land (hamlet) yields a lot of results, and it is impossible to harvest it himself, he will look for someone else to help work on his plantation products with a profit-sharing agreement.

2) Cultivator

Farmers are parties who work in the agricultural sector, both garden agriculture, fields, rice fields, fisheries, and so on land.¹⁴Farmers themselves can be divided into 2 (two) namely owner farmers and sharecroppers. Cultivators are farmers who usually work on other people's land, with the wages received by the sharecroppers in the form of profit-sharing with the owner. So, between the owner and the sharecropper, there is an agreement or interaction that creates a reciprocal legal relationship.

¹⁴Koslan A. Tohir. (1991). *Farming Business*, Jakarta: Rineka Cipta, p. 121.

In the agreement for the production of plantations in the State of Nalazia, Central Maluku, almost the majority of those who become sharecroppers are those who do not own land/hamlets in the State of Nalazia because they are migrants. The immigrants referred to here are not natives of the Nalazia State, Central Maluku. These immigrants, usually those who married the people of the Nalazia Country, then lived and settled in the Nalazia Country. In the land of Nalazia, the term commonly used to describe the newcomers are "traders".

In its development, currently, it is not only the immigrants who become sharecroppers, but also the indigenous people of the State of Nalazia, who during the harvest season, their plantation lands do not provide plantation products at all, or also provide plantation products but are few and have already been harvested by themselves.

b. An object of the Plantation Profit Sharing Agreement

Regarding the object of the agreement (*onderwerp der overeenkomst*) in the Civil Code in some existing literature, it is stated that the object of the agreement is the achievement (principal of the agreement).¹⁵Achievement is what is the obligation of the debtor and what is the right of the creditor.¹⁶This achievement consists of positive and negative actions. Achievements consist of:¹⁷

- a) Give something;
- b) Do something;
- c) Not doing anything (Article 1234 of the Civil Code)

¹⁵Novi Ratna Sari. (2017). Comparison of Terms of Validity of Agreements According to the Civil Code and Islamic Law, *Journal of the Repertorium*, 4 (2), p. 83.

¹⁶Yahya Harahap. (1986). *The Law of Agreement*, Bandung: Alumni, p. 10.

¹⁷Sudikno Mertokusumo. (1987). *Summary of Civil Law Lectures*, Postgraduate Gadjah Mada University, Yogyakarta, p. 36.

Achievement must be determinable, permissible, possible, and can be valued with money. Can be determined means that in carrying out the agreement, the contents of the agreement must be ascertained. This means that it can be determined sufficiently.¹⁸

In the implementation of the plantation production sharing agreement in the State of Nalazia, Central Maluku, the object of the agreement is the plantation product in the hamlet of the landowner. Plantation products which are usually the object of this profit-sharing agreement are long-lived crops in the form of cloves, nutmeg, coconut, durian, and short-lived plants such as *kasbi (cassava)* and *taro (yam)*.

4.2 Rights and Obligations of the Parties in the Plantation Production Sharing Agreement in the State of Nalazia, Central Maluku

a. Plantation Owners' Rights and Obligations

1) Plantation Owner's Rights

In the agreement for the production of plantations in the State of Nalazia, Central Maluku, the rights of the plantation owner are:

1. Receiving the distribution of plantation yields following the pre-agreed comparison with the sharecroppers;
2. From time to time in monitoring and supervising the process of harvesting plantation products by smallholders.

2) Obligations of the Plantation Owner

The obligations of the plantation owner in the plantation production sharing agreement in the State of Nalazia, Central Maluku are:

1. Give up their plantations to be cultivated by smallholders;
2. Bear and provide food and drink for smallholders at the time of harvesting their plantation products.

b. Rights and Obligations of Cultivators

1) Cultivator's Rights

The rights of the sharecropper in the plantation yield sharing agreement are:

¹⁸Salim HS (2003). Development of Innominate Contract Law in Indonesia, Jakarta: Sinar Graphic, p. 24.

1. Receive the distribution of plantation products with a pre-agreed comparison with the plantation owner (hamlet);
2. Received the right to temporarily surrender the plantation owned by the plantation owner for harvesting.

2) Obligations of Cultivators

The obligations of the sharecropper in the plantation yield sharing agreement are:

1. Cultivating or harvesting plantation products following the agreement with the plantation owner;
2. Do not take other results other than those agreed upon and or damage the location of the plantation owned by the plantation owner (hamlet).

4.3 Form of Plantation Profit Sharing Agreement in the State of Nalaha, Central Maluku.

Based on Article 3 of Law no. 2 of 1960 states that the profit-sharing agreement must be implemented in writing to avoid doubts and even minimize the occurrence of disputes due to default by one of the parties in the future. But in the implementation of the plantation production sharing agreement in the Nalaha State, Central Maluku, which the local community based on mutual trust between the two parties and also due to the lack of community knowledge, especially concerning this production sharing agreement, the form of the plantation production sharing agreement in the Nalaha State between plantation owners and smallholders is only verbal (not written). This means that the agreement made by the two parties is not at all stated in a written deed or letter.

This is indeed a weakness related to the implementation of this plantation production sharing agreement if at any time one of the parties breaks a promise (default). If this default is committed by one party, it will be difficult for the other party to prove that there has been a plantation production sharing agreement between the two parties, and as a result, the injured party will find it difficult to claim compensation due to a default by one of the parties. the.

Based on interviews with all respondents, namely 5 (five) people as plantation owners (hamlets) and 5 people as cultivators, it turns out that until now, there has never been a default by another party, so that the other party has not suffered a loss. Several factors have caused a default in the profit-sharing agreement in the Nalahia State, Central Maluku, to date. These factors include:

- a. There are still very ties of kinship relations among the people of the State of Nalahia;
- b. There is good faith between the parties carrying out the profit-sharing agreement;
- c. The people of the State of Nalahia, in carrying out this agreement, do not see how much material or money or the results of the plantation are, but rather the bond of cooperation and helping fellow citizens of the State of Nalahia.

Based on the description of the factors above, this shows that of all the respondents who have implemented this plantation production sharing agreement, they have commitments and keep the contents/clauses of the agreement even though it is only in oral (not written) form.

4.4 Term of the Plantation Profit Sharing Agreement in the State of Nalahia, Central Maluku

Based on the provisions of Article 4 paragraph 1 of Law Number 2 of 1960, it is stated that: "the profit-sharing agreement is held for the period stated in the agreement letter in Article 3, provided that for rice fields at that time it is at least 3 (three) years. and for dry land at least 4 (five) years "

Regarding the implementation of the plantation production sharing agreement in the State of Nalahia, Central Maluku, in terms of the period, it is based on interviews with both the plantation owners (hamlets) and smallholders, because this plantation production sharing agreement is in the form of an oral (not written) which is based on the trust of both parties. parties, then regarding the period of implementation of the production sharing agreement, there is no agreement on how long it will take to harvest the plantation products. Usually what happens is that smallholders according to their ability will only harvest the results of the plantation as much as they can. As

stated by one of the smallholders, namely A. Some, in one day, they can harvest cloves, for example from 09.00 WIT to 17.00 WIT. Furthermore,

This plantation production sharing agreement will end when the smallholders have finished working on or harvesting the plantation products following the agreement with the plantation owners.

4.5. Legal Terms of the Plantation Profit Sharing Agreement in the State of Nalazia, Central Maluku

Based on Article 3 paragraph (1) of Law no. 2 of 1960, it is stated that a valid profit-sharing agreement, in this case, must be made by the owner and cultivator themselves in writing before the Village Head where the land is located, witnessed by 2 (two) people, each from the owner and cultivator.

The purpose of the above requirements are:

- a. In the future, there will be no doubts between the two parties, if at any time there is a default by one of the parties. This means that, if there is a default in the profit-sharing agreement, the contents/clauses in the written agreement made by both parties can be used as letter evidence.
- b. Provide legal certainty for the parties, both landowners and sharecroppers in the implementation of profit-sharing agreements.

As previously explained in the point of the form of the plantation production sharing agreement in the State of Nalazia, Central Maluku, the form of the plantation production sharing agreement is an oral agreement in which both parties agree to determine the contents of the agreement based solely on a sense of trust. Thus, the provisions referred to in Article 4 paragraph 1 of Law Number 2 of 1960 above, are not at all applied or used as a reference for both parties in the implementation of plantation production sharing in the State of Nalazia.

Article 1320 of the Civil Code states that there are 4 (four) conditions for a valid agreement, namely "for a valid agreement to occur, it is necessary to fulfill four

conditions, namely (1) agree that those who bind themselves, (2) are capable of carrying out legal actions, (3) a certain thing, (4) a lawful cause". Based on the sound of Article 1320 of the Civil Code, it can be further elaborated as follows:

a. Agree on both sides

The agreement implies that in the implementation of the agreement, it must be based on the free will of both parties without any coercion, error/mistake, fraud, and abuse of circumstances.

In the plantation production sharing agreement in the State of Nalazia, Central Maluku, both the hamlet owner (plantation) and the cultivator both agreed verbally (not in writing) to submit the results of the agreement they made.

b. Ability to make agreements

Skill implies that in the agreement, both parties are considered capable of carrying out legal actions, in this case, the agreement. Competent or able to carry out legal actions in the form of the agreement, in civil law must be an adult, namely aged 21 years and over, or not yet 21 years old but already married (handlichting).

In the plantation production sharing agreement in the State of Nalazia, Central Maluku, the parties who carry out this agreement are considered capable or capable of agreeing, because they are married and are over 21 years of age. So that following this second legal requirement, the parties are considered capable/able to carry out the plantation production sharing agreement. Of the 10 respondents studied, all of them are over 21 years of age and are married (married) so they are legally considered competent or able to make a legal action in the form of a profit-sharing agreement for the plantation.

c. A certain thing

Talking about a certain thing, relating to the object of the agreement. The object of the agreement must be defined. In this regard, if it is related to the plantation production sharing agreement in the State of Nalazia, Central Maluku, then the object of the

agreement as previously mentioned is plantation products that are already ready to be harvested. So that the object of the profit-sharing agreement can be determined.

d. Allowable causes/cause

The terms of this permissible cause/cause are related to the purpose of implementing the agreement. The purpose of implementing the agreement must not conflict with the law, morality, and public order.

In the plantation production sharing agreement in the State of Nalazia, Central Maluku, the fourth requirement is fulfilled because the intent or purpose of the implementation of this plantation production sharing agreement does not conflict with the law, decency, or public order.

4.6. Process of Plantation Profit Sharing Agreements in the State of Nalazia, Central Maluku

In the process of the agreement for the production of plantations in the State of Nalazia, Central Maluku, it is usually initiated by the plantation owner (hamlet) who offers the smallholders to work on or harvest their plantation products.

Based on interviews with respondents, the habit that occurs is that after the sharecropper agrees to work on or harvest the plantation products belonging to the plantation owner (hamlet), the distribution is in a ratio of 50: 50. This means that the plantation results will be divided equally in two, in other words, both parties will get the same amount. This is a habit that has been passed down from generation to generation when carrying out this plantation production sharing agreement.

However, in current developments, the distribution of plantation produce does not always follow the hereditary habit, namely with a ratio of 50: 50. This is because of an interview with one of the respondents from the plantation owner (hamlet), namely Mr. Minggu Hetharie, who once agreed to the sharing of plantation products with the cultivators. , because based on humanity, the results of the plantation are divided in a ratio of 40: 60. 40 percent is mostly for respondents as plantation owners and 60

percent for smallholders. Thus, the distribution of plantation results depends on the initial agreement between the two parties.

In the process of working or harvesting these plantation products, food and drink are usually provided by the owner of the plantation (hamlet). Plantation owners usually provide food for later delivery to smallholders at the plantation site.

Based on the results of research on both plantation owners (hamlets) and sharecroppers, there are several reasons in the process of implementing plantation production sharing agreements that cause plantation owners (hamlets) to offer smallholders to work on or harvest their plantation products. These reasons can be described as follows:

Name of Land Owner	Reasons for Implementing Profit Sharing Agreement
Mr. D. Hetharie	With a sickly body condition, not young, and all the children in Ambon so they cannot harvest their plantation products.
Mr. T. Lewakabessy	With a body condition that is not young anymore, and all of his children and grandchildren are not in Nalahia so they cannot harvest their plantation products.
Mr. A. Hetharie	Because it is old, and sometimes many plantation products must be harvested so that it is not enough for just a few people
Mr. Y. Manuputty	Due to the condition of an old body, unable to do it alone, as well as children who are outside Ambon, so they have to offer someone else to harvest
Mr. Z. Sapulette	Because he doesn't live in the land of Nalahia, he entrusts his plantation products to other people with a profit-sharing agreement

Source: processed from interviews with plantation landowners.

Based on the results of interviews with respondents through the table above, most of the reasons for agreeing on profit-sharing agreements with smallholders are due to physical conditions and conditions that make it no longer possible to harvest plantation products alone, and relatives, such as children, are not in the State of Nalahia. In addition, because many results must be harvested, it requires other people. Another reason is that they do not live or settle in the State of Nalahia, so they have to ask someone else to help harvest the plantation products.

5. Conclusion

The implementation of the plantation production sharing agreement in the State of Nalazia, Central Maluku, does not follow the provisions of the production sharing agreement according to Law no. 2 of 1960, on the contrary, it was carried out according to the custom of the Nalazia community since time immemorial in the form of an oral agreement between the plantation owner and the sharecropper based on mutual trust that is inherent and continues to be maintained in the Nalazia community. The owners of the plantations are the native people of the State of Nalazia, while the smallholders are mostly non-natives (immigrants) but live and settle in Nalazia. This plantation production sharing agreement is agreed with the percentage of the distribution of plantation products is 50: 50. This provision has been a custom since the ancestors. But, at the moment, the percentage of the distribution may differ according to the agreement of both parties. The implementation of this plantation production sharing agreement will end with the completion of the smallholder harvesting the plantation products belonging to the landowner (hamlet).

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