

ANALYSIS OF JUDGE CONSIDERATIONS AND LEGAL BASIS IN DECISIONS REJECTING LAWSUITS IN LAND DISPUTES

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ABSTRACT

Abstract: In the land dispute case in decision Number 644/Pdt.G/2020/PN. Tng where the plaintiff filed a lawsuit over a land object which he claimed was inherited from his parents to the defendant who had so far controlled and used the land object. In his decision the judge rejected the plaintiff's claim in its entirety, the judge's refusal was inseparable from the judge's legal considerations which became the basis for a decision. The type of research used is normative legal research. The approach used by the authors in this study is the statutory approach and case approach. The type of data in this study is secondary data. In this study, data analysis was used. is a qualitative analysis. the results of this study are that the judge in his consideration saw the plaintiff's evidence in the form of letter C where the evidence was not strong as confirmed by the decision of the supreme court of the Republic of Indonesia dated 25-61973 no 84 K/Sip/1973 which said notes from the village book (letter C) cannot be used as proof of ownership rights if it is not accompanied by other evidence. The conclusion of this study is that the consideration of judge in making a decision uses a balanced approach and the Ratio Decidendi approach, where the judge considers all aspects related to the subject matter in dispute and then looks for laws and regulations that are relevant to the subject matter in dispute as the legal basis for imposing a decision.

Keywords: Consideration of Judges; Lawsuits; Disputes

Introduction

Humans are social creatures who tend to always live in groups (society). Social life requires humans to interact or have relationships with each other in order to fulfill their needs. Each individual has rights and obligations that must be valued and respected by others. Thus, it requires a rule that becomes the rules of the game in carrying out life activities to create order in society. The rules that bind society in this case are referred to as laws that are born in a country and bind citizens and everyone who is within the territorial area of the country. The law is then carried out by state organs that have authority based on the constitution and laws and regulations. Humans in social life are very likely to experience frictions that can cause instability in society. The friction usually leads to dispute cases, dispute cases occur because they feel their rights have been violated by others. Disputes are conflicts, disputes, and disagreements that occur between one party and another party and or between one party and various parties relating to something of value, whether in the form of money or objects.

A dispute can be defined as something that causes a difference of opinion, quarrel, argument; contention, dispute; case (in court). A dispute usually starts with a situation where one party feels aggrieved by another. This is preceded by a subjective and private feeling of dissatisfaction that can be experienced by individuals or groups. Feelings of dissatisfaction will surface if there is a conflict of interest. The party who feels aggrieved will convey his dissatisfaction to the second party. If the second party can respond and satisfy the first party, the conflict is over. But if the reaction of the second party shows a difference of opinion or has different values, there is what is called a dispute.

For this reason, a legal mechanism is needed to restore the relationship by using an institution that has the authority to implement and enforce the law that applies and is binding for every legal subject. This is necessary to prevent vigilantism (*eigenrichting*). Therefore, in a state of law to resolve disputes, a legal system is made, namely the judiciary. According to Sudikno Mertokusumo, the judiciary in question is the implementation of the law in the concrete case of a claim for rights, which function is carried out by a body that stands alone and is held by the state and is free from the influence of what and whoever by giving a binding decision. The importance of the administration of justice is related to legal certainty. Legal certainty is an effort to find a balance between various free wills that conflict with each other. Various free wills that conflict with each other can trigger the law of the jungle, where the strong colonize the weak. Prof. van Kan states that the law aims to protect the interests of each human being so that those interests cannot be disturbed.

Parties who feel that their civil rights have been harmed can bring their case to court to obtain a settlement in accordance with the applicable legal corridors, namely by filing a lawsuit against the parties who harmed them. The initiative to file a claim for rights is left entirely to the interested party. This is an enforcement of the principle of judges waiting in civil procedure law (*index ne procedat ex officio*).

According to Sudikno Mertokusumo, what is meant by a lawsuit is a claim for rights aimed at obtaining protection of rights granted by the court to prevent acts of "*Eigenrichting*". People who file rights claims need or have an interest in legal protection. He has an interest in obtaining legal protection, therefore he submits a claim for rights to the court.

There are two types of lawsuits in civil cases, namely:

1. A contentious case is a case in which there is a dispute between two or more parties, often referred to as a civil lawsuit. This means that there is a conflict that must be resolved and must be decided by the court, whether it ends in defeat or peace depends on the legal process. For example, disputes over property rights, inheritance, and others.
2. *Voluntaria* (petition) cases, in which there is no dispute or dispute but only solely for the benefit of the applicant and is unilateral (*ex-parte*). It is also called a petition lawsuit. For example, requesting the determination of each inheritance, changing the

name, appointment of children, guardians, guardians, correction of civil registration deeds, and others.

An interested party may file a lawsuit. The filing of a lawsuit can be in writing or orally. Oral lawsuits are allowed for those who are illiterate. But in its development, judicial practice is now no longer common to find oral filing of lawsuits. Both oral and written lawsuits must pay court fees when registering the lawsuit at the registry of the authorized district court. For those who are unable to pay court fees, they can file a case free of charge (*prodeo*) by obtaining permission to be exempted from paying court fees, by submitting a certificate of indigence made by the local sub-district head. The requirements regarding the content of the lawsuit are contained in Article 8 Paragraph (3) Rv (*Reglement op de Burgelijke Rechtsvordering*) which requires the lawsuit to basically contain the identity of the parties, concrete arguments about the existence of a legal relationship which is the basis and reasons for the claim (*middelen van den eis*) or better known as *fundamentum petendi* (*posita*), and *petitum* or demands.

In practice, it is still frequent and even most cases end with a *dictum* decision stating that the plaintiff's claim is rejected. One of them is the decision of the Tangerang District Court Decision Number 644/Pdt.G/2020/PN.Tng. where on July 28, 2020 the plaintiffs, in this case the children of the late Madi bin Kenin and the late Mrs. Cini binti Cinong (hereinafter referred to as the Plaintiffs) filed a lawsuit at the Tangerang District Court with case number 644/Pdt.G/2020/PN. Tng against Rizki Mulyawan, H. Masri, Muslim, Ade Lius, Edward Palandeng, Oey sri Mulyani and Arawita (hereinafter referred to as the Defendants). Due to the existence of the lawsuit, the Tangerang District Court has given a Decision dated March 17, 2021 in which the verdict states that the Plaintiff's claim is rejected.

In a case, the contents of the decision must contain the *Sitting* of the case, *Legal Considerations* of the Judge, and *Dictum / Amar Putusan*. *Sitting* of the case is the subject matter of the parties which includes the arguments of the lawsuit, the answer, and a brief description and scope of proof. The Judge's *Legal Consideration* is the argument or reason used by the judge as a *juridical consideration* as a basis before deciding the case based on the facts revealed at trial and by the stipulated law as must be contained in the decision such as legal events, witness testimony, evidence, and *jurisprudence* in civil law. From the results of the argumentation, the judge explains his opinion on what is proven and what is not, formulated into a legal conclusion as the basis for the basis for resolving the case which will be stated in the *dictum* of the decision. The *dictum* or ruling is a statement (*declaration*) relating to the status and legal relationship between the parties and the disputed object goods and also contains an order or condemnation or condemnation inflicted on the litigant.

From the perspective of the implementation of judicial power, it must be based on *Pancasila* which is power that is responsible to God Almighty and the 1945 Constitution

of the Republic of Indonesia as the main basis and basis for the authority to exercise judicial power that is free from intervention in any form. This is a necessity for the implementation of the Indonesian rule of law, as required by Article 1 paragraph (3) of the 1945 Constitution which states, "The Indonesian state is a state of law." Legal sovereignty (*rechtsouvereniteit*) is based on the principle that law is the only source of sovereignty.

When judging a case, a judge will try to provide justice for the parties. For this reason, the judge carries out activities and actions by first checking the truth of the event presented to him and after that considering it by providing an assessment of the event and connecting it with the applicable law to then provide a conclusion in the form of a decision.

In the case of a land dispute in decision Number 644/Pdt.G/2020/PN. Tng where the plaintiff filed a lawsuit over the land object which he claimed was an inheritance from his parents against the defendant who had been controlling and using the land object. In his decision, the judge rejected the plaintiff's claim in its entirety. The judge's rejection was inseparable from the judge's legal considerations which were the basis for handing down the decision.

Based on the various injections of rules and norms in relation to the land dispute case as in the Decision. seen from a normative juridical point of view, it turns out that substantively, it contains errors so that it can cause obscure libel regarding the boundaries and extent of the object of dispute and errors in persona regarding the parties made as plaintiffs and defendants. Likewise, for academics, there is a wide opportunity for them to criticize carefully and in depth about the judge's consideration and the legal basis of the decision which will be the focus of critical research analysis by the author. On the basis of these thoughts, the author wishes to further examine the issue of land dispute decisions in district court decision Number 644/Pdt.G/2020/PN. Tng. Then, will pour it into the form of a scientific journal.

Based on the phenomena in the background, the main problems in this journal can be formulated as follows:

1. What are the considerations of the judge who rejected the Plaintiff's land dispute case in Decision Number 644/Pdt.G/2020/PN. Tng?
2. What is the legal basis used by the judge in Decision Number 644/Pdt.G/2020/PN. Tng?

The objectives of the research in this journal include:

1. To find out the legal considerations of the judge who rejected the Plaintiff's land dispute case in Decision Number 644/Pdt.G/2020/PN.Tng.
3. To find out the legal basis used by the judge in Decision Number 644/Pdt.G/2020/PN.Tng.

In addition to the objectives to be achieved by the researcher in making this research, the researcher hopes that this research can provide theoretical and practical benefits. Theoretically, it is hoped that this research can increase the author's knowledge theoretically in the field of civil procedure law regarding the legal reasons for the birth of a rejected lawsuit decision in a land dispute. Practically, this research is expected to be useful as a form of contribution of thought for the general public, legal practitioners in order to find out about the legal reasons for the birth of an unacceptable lawsuit decision in a land dispute and the legal consequences of a rejected lawsuit decision in a land dispute.

The theoretical framework is a framework for answering research questions used to explain the facts and legal events that occur. The theoretical framework becomes an analytical knife to answer the formulation of problems in research. In this study the authors will use the following theories:

Theory of judge's authority

The theory of judge authority is used in this research because the variable focused on in this research is the judge's consideration in a civil decision. Judges are simply defined as court officers who hear cases. In administering justice, judges are given the authority to examine and decide cases submitted to the court. The provisions of article 1 paragraph (5) of Law No. 48 of 2009 concerning judicial power states, "Judges are judges at the Supreme Court and judges at the judicial bodies under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and judges at special courts within the judicial environment." In the authority to examine and decide cases, judges have the authority to examine and decide cases. In the authority to examine and decide cases submitted to the courts at the Supreme Court and the courts under it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment and in special courts, judges are required to explore, follow and understand the legal values and sense of justice that live in society. As stated in Article 5 paragraph (1) of Law No. 48 of 2009 concerning judicial power, "Judges and constitutional judges are obliged to explore, follow and understand the legal values and sense of justice that live in the community."

Judge's consideration

The Theory of Judges' Considerations is used in this research because it is the main variable that will be analyzed by the author. The judge's legal considerations are the basis for the issuance of a verdict. In accordance with the information in Article 184 H.I.R and Article 25 of Law No. 4 of 2004 concerning the Principles of Judicial Power. 4 of 2004 concerning the Principles of Judicial Power. The reasons or reasons formulated by the judge are what must be contained in the considerations that support the decision as an accountability to the public why he made such a decision so that the decision has an objective value and has authority.

It can be said that legal considerations are the soul and essence of the decision. The consideration contains analysis, argumentation, opinion, or legal conclusions from the judge examining the case. In the consideration, a clear analysis is put forward based on the evidentiary law:

1. Whether the evidence submitted by the plaintiff and defendant meets the formal and material requirements.
2. Which party's evidence reaches the minimum evidentiary limit
3. What arguments of the plaintiff and what arguments of the defendant are proven
4. The extent of the parties' evidentiary strength. Hakim dalam menjatuhkan The verdict must be based on or prescribed by the law. The judge may not impose a sentence that is lower than the minimum and also the judge may not impose a sentence that is higher than the maximum sentence determined by law. In deciding the verdict, there are several theories that can be used by the judge. According to Mackenzie, there are several theories or approaches that can be used by judges in considering sentencing in a case, namely as follows:

a. Balance Theory

The theory of balance is the balance between the requirements set by law and the interests of the parties involved or related to the case.

b. Art and Intuition Approach Theory

The imposition of a decision by a judge is the discretion or authority of the judge. As a discretion, in making a decision, the judge will adjust to the circumstances and reasonable punishment for each perpetrator of a criminal offense or in a civil case, the judge will look at the circumstances of the litigants, namely the plaintiff and the defendant, in a civil case the defendant or the Public Prosecutor in a criminal case. Sentencing, judges use an artistic approach, more determined by instinct or intuition rather than knowledge of the Judge.

c. Scientific Approach Theory

The starting point of this science is the idea that the process of sentencing must be carried out systematically and carefully, especially in relation to previous decisions in order to ensure the consistency of the judge's decision.

d. Experience Approach Theory

The experience of a judge is something that can help him in dealing with the cases he faces every day.

e. Ratio Decidendi Theory

This theory is based on a fundamental philosophical foundation that considers all aspects related to the subject matter in dispute and then looks for laws and regulations that are relevant to the subject matter in dispute as a legal basis for making decisions and judges' considerations must be based on clear motivation to uphold the law and provide justice for the litigants.

f. Wisdom Theory

The aspect of this theory is to emphasize that the government, society, family and parents are responsible for guiding, educating, fostering and protecting the defendant, so that one day he can become a useful human being for his family,

society and nation.

Judge's verdict

According to Sudikno Mertokusumo, a judge's decision is a statement by a judge, as a State official authorized to do so, pronounced in court and aims to end or resolve a case or dispute between the parties. According to Achmad Ali, the person who first introduced the existence of 3 stages of the judge's task in making court decisions was Sudikno Mertokusumo, namely the constatir stage, the qualification stage, and the constituir stage. The verdict or dictum is a statement (declaration) regarding the status and legal relationship between the parties and the disputed object. And also contains orders or condemnation (condemnatoir) inflicted on the litigants. For this reason, the ruling must be clear and concise in its formulation, so as not to cause dualism in interpretation.

Research Method

Types of Research

The research method is a way to explain the entire series of activities that will be carried out in order to answer the main problem or to prove the assumptions put forward. To answer the main research problem and prove assumptions must be supported by data obtained by researchers from the research results.

Type of Research

The type of research used is normative legal research. normative legal research is research conducted by examining library materials or secondary data. Meanwhile, according to Mukti Fajar ND and Yulianto Ahmad, it presents normative law as follows: Legal research that places the law as a system of norms, the system of norms in question is about the principles, norms, rules of legislation, court decisions, agreements and doctrines (teachings).

Research Approach

Generally, there are five approaches used in legal research, namely the statute approach, case approach, historical approach, comparative approach, and finally conceptual approach. The approach used by the author in this research is a statute approach, namely examining all applicable regulations and laws related to the legal issues under study, then using a case approach, which means that the author analyzes and studies a decision that has permanent legal force related to the legal issues being studied.

Types and Sources of Data

The type of data in this research is secondary data, namely data obtained from empirical materials. The data collection tool used is a document study conducted using legal materials, namely:

1. Primary legal materials, in the form of laws and regulations, including:
 - a. 1945 Constitution;
 - b. Law Number 48 of 2009 concerning the power of judges;
 - c. Civil Code;
 - d. Other relevant laws and regulations
2. Secondary legal materials, namely materials that provide an explanation of primary legal materials in the form of books, journals, research results, scientific works and other sources;

3. Tertiary legal materials, namely other materials that have relevance to the subject matter that provide information about primary and secondary legal materials, including general dictionaries and legal dictionaries.hukum.

Data Collection Technique

Data processing techniques are how to process the data collected to enable the research concerned to carry out the best possible analysis. Both primary and secondary legal materials are collected based on the topic of the problem that has been formulated and classified according to the source and hierarchy to be studied comprehensively. To collect data, the author uses the following steps:

- a. Literature study, namely by studying tertiary legal materials related to the focus to be studied, namely journals and scientific articles that have relevance to legal considerations and judges' decisions in civil cases.
- b. Documentary study is a study that examines various documents, both related to legislation and existing documents.

Data Analysis

Data analysis is defined as the process of organizing and sorting data into patterns, categories, and basic description units so that themes can be found and working hypotheses can be formulated as suggested by the data. In this study, the data analysis used was qualitative analysis. Qualitative analysis is a data analysis that does not use numbers, but rather provides descriptions (descriptions) with words on the findings, and therefore prioritizes the quality/quality of the data, and not the quantity.

Result And Discussion

Analysis of Judges' Considerations in Rejecting Land Dispute Lawsuits

The purpose of this study was to determine and analyze the considerations of the panel of judges in case decision No. 644/Pdt.G/2020/PN. Tng. To find out about the considerations of the panel of judges in the decision, the researcher has read the decision of case 644/Pdt.G/2020/PN. Tng. decision of the Tangerang District Court Decision Number 644/Pdt.G/2020/PN.Tng. where on July 28, 2020 the plaintiffs, in this case the children of the late Madi bin Kenin and the late Mrs. Cini binti Cinong (hereinafter referred to as the Plaintiffs) filed a lawsuit at the Tangerang District Court with case number 644/Pdt.G/2020/PN. Tng against Rizki Mulyawan, H. Masri, Muslim, Ade Lius, Edward Palandeng, Oey sri Mulyani and Arawita (hereinafter referred to as the Defendants). In response to the lawsuit, the Tangerang District Court has issued a verdict on March 17, 2021 in the case of

March 17, 2021 in which the verdict stated that the Plaintiff's claim was rejected in its entirety. The case that occurred in case decision No. 644/Pdt.G/2020/PN. Tng includes a contentiosa case (lawsuit), namely a case in which there is a dispute between two or more parties which is often referred to as a civil lawsuit. The dispute occurred between the heirs of madi bin kenin who were the plaintiffs and Rizki Mulyawan, H. Masri, Muslim, Ade Lius, Edward Palandeng, Oey sri Mulyani and Arawita (hereinafter

referred to as the Defendants). So in analyzing the judge's consideration, the researcher uses a clear analysis based on the evidentiary law, the evidence to be analyzed is evidence in the form of documents of a civil nature that state the ownership of both the plaintiff and the defendant.

In the legal considerations in the decision the judge considered that from all the evidence and witness testimony submitted by the plaintiffs as described above it was not sufficient to be based on only one letter of evidence, namely P-10 in the form of girik/letter C number 1299 in the name of Madi bin Kenin which stated that the land in dispute belonged to the plaintiffs and had never been sold and transferred to another party because in the girik there was no crossing out of the transfer from Madi bin Kenin to the first defendant, because the girik/letter C cannot be used as sole evidence and must be supported by other evidence such as land stakes, land and building tax and proof of payment and a certificate of land history from the village. This is also emphasized by the decision of the Supreme Court of the Republic of Indonesia dated 25-6-1973 No. 84 K/Sip/1973 which says that records from the village book (letter C) cannot be used as evidence of property rights if they are not accompanied by other evidence. From the judge's consideration, it can be analyzed that the evidence submitted by the plaintiff does not have strong legal force. The evidence submitted by the plaintiff was refuted by the defendant who floated stronger evidence so that the defendant's denial became one of the judge's considerations in deciding.

In his consideration, the judge also considered the denial of evidence from the defendant. The defendant presented evidence in the form of a sale and purchase deed no.1550/ciputat/2003 on 4 November and a proof letter of sale and purchase deed no.590/2718/JB/Kec.CPT/1993 dated 30 December 1993 as evidence that the defendant had purchased from Ade Lius (co-defendant II) an area of 600 M² (six hundred square meters) parcel no.27. /39.D.III block 009 Kohir no.c 511/140 in front of Drs Muhammad Msi Camat Ciputat as PPAT and Ade Lius (co-defendant II) bought the land from Kawling bin Miun measuring 600 m² from parcel no.27/39.D.III block 009 Kohir no.c 511/140 in front of Drs Effendi Arsyad Camat Ciputat as PPAT.

Furthermore, evidence in the form of deed of sale and purchase no. 1621/ciputat/2002, dated 18 November 2002 and evidence in the form of deed of sale and purchase no. 590/855/JB/kec.CPT/1990 dated 3 April 1990 are evidence that the first respondent purchased land from Edward Palandeng (third respondent) covering an area of 516 m² from parcel no. 39 D.III block 009 Kohir no. C1220/389 in front of Drs. Effendi Arsyad and Arsyad. Edward Palandeng (respondent III) purchased the land from Madi bin Kening measuring 615m² from parcel no 39 D III block 009 Kohir No. C1220/389 in front of Drs Obun Ciputat sub-district as PPAT. Defendant I attached evidence in the form of a BJB bank deposit letter (STTS) for the object to strengthen evidence of the transfer of rights to the disputed land.

On the basis of the evidence submitted by the defendant in the form of a deed of sale and purchase reinforced by a letter of land and building tax deposit, the judge in his consideration stated that the defendant I was proven according to the law to purchase the disputed land object partially, and the transfer was in accordance with regulation number 10 of 1961 concerning land registration as amended by government regulation number 24 of 1997 concerning land registration as referred to in article 37 paragraph (1) of government regulation number 24 of 1997 and did not violate the law.

By considering the consideration of the plaintiff's evidence in the form of letter c which is not supported by other evidence and the defendant's evidence in the form of an authentic word of transfer of land rights which is supported by other evidence such as proof of tax payment on the disputed object and the history of land purchase before an authorized official in this case the sub-district head of Ciputat as a PPAT, the panel of judges is of the opinion that the plaintiffs are unable to prove that the disputed object land has never been transferred or sold by Madi bin Kenin to the defendant I or other parties. So the judge stated that the plaintiffs' lawsuit must be rejected and the plaintiffs were on the losing side. The judge's decision when looking at the underlying considerations, the judge used a balance theory approach, namely the balance between the requirements determined by law and the interests of the parties involved or related to the case. The approach to making decisions with the theory of balance reflects that the judge has exercised his authority as a court that upholds the value of justice as stated in article 5 paragraph (1) of Law No. 48 of 2009 concerning judicial power, "Judges and constitutional judges are obliged to explore, follow and understand the values of law and a sense of justice that lives in the community.

According to the author's analysis in legal considerations the judge also uses the Ratio Decidendi approach theory, this theory is based on a fundamental philosophical foundation that considers all aspects related to the subject matter in dispute and then looks for laws and regulations that are relevant to the subject matter in dispute as a legal basis for ruling and the judge's consideration must be based on clear motivation to uphold the law and provide justice for the litigants. In his consideration, the judge not only considers documentary evidence of ownership but also the witnesses presented at the trial, besides that the judge also considers other aspects related to the subject matter such as the plaintiff's provisional claim related to the fact of the disputed object, the defendant's exception claim related to the defendant's denial. By considering all aspects related to the case, the judge then looks for regulations that become the basis for a fair decision in the eyes of the law. With balanced legal considerations and considering all aspects, it will decide the verdict is clear, fair and has a legal basis that is binding on all parties to the case, so that there is no dualism in the interpretation of the verdict.

Analysis of the Legal Basis for the Decision Rejecting the Land Dispute Lawsuit

Until now, there are still lands that do not have proof of land rights because they are inherited from customary law or land rights according to colonial law, causing problems

that lead to land disputes. Disputes that are often encountered in people's lives related to very crucial matters for the interests of their rights are land disputes. A land dispute is a conflict between two or more people who both have an interest in the status of land object rights, between one or several land objects that can cause certain legal consequences for the parties to the dispute.

Land disputes are different from land conflicts. Based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (BPN) No. 11/2016 on Land Case Settlement, a land dispute means a land dispute between individuals, legal entities or institutions that does not have a broad impact. Land conflicts are land disputes between individuals, groups, groups, organizations, legal entities or institutions that have a tendency or have a broad impact. Land disputes are limited to administrative disputes, civil disputes, criminal disputes related to ownership, transactions, registration, guarantee, utilization, control and customary rights disputes.

Indonesian legislation has made it mandatory for landowners to carry out land registration so that the legal certainty of the land they control is guaranteed. Land registration is emphasized in Article 19 of the UUPA and Government Regulation No. 24 of 1997 on Land Registration. Land disputes occur because land has an important position for the person or party who owns it.

The facts that occur in the community are still many cases related to land that has not been registered, such as inherited land. In the case analyzed in this study, the plaintiffs, in this case the children of the late Madi bin Kenin and the late Mrs. Cini binti Cinong (hereinafter referred to as the Plaintiffs) filed a lawsuit at the Tangerang District Court with case number 644/Pdt.G/2020/PN. Tng against Rizki Mulyawan, H. Masri, Muslim, Ade Lius, Edward Palandeng, Oey sri Mulyani and Arawita (hereinafter referred to as the Defendants). The plaintiffs filed a lawsuit with the Tangerang District Court on the basis of the possession of land by Defendant I on the object of land which the plaintiffs believed was inherited from their father with evidence in the form of a girik / letter C document number 1299 in the name of Madi bin Kenin.

The land title evidence submitted by the Plaintiff is in the form of a Letter C Excerpt which has never been registered at the Tangerang District Land Office. After the enactment of the UUPA in 1960, the recognized proof of land ownership is a certificate, so all forms of proof of land ownership before the enactment of the UUPA should have been registered in the form of a certificate. Evidence of land ownership prior to the enactment of the UUPA took the form of Letter C, Girik or Pethuk D. Letter C is evidence in the form of a record located at the Village or Kelurahan Office. Letter C excerpts were usually used as the basis for tax collection and the information about the land contained in the Letter C book was not very complete and thorough.

Based on the Decree of the Minister of Home Affairs Number SK26/DDA.1970 as an affirmation of Article 3 of the Regulation of the Minister of Agriculture and Agrarian Affairs (PMPA) No. 2 of 1962 states that Letter C can be considered as evidence of rights if in areas before September 24, 1960, land tax or Verponding Indonesia had been levied and then there was a transfer of rights through (sale, purchase, grant or exchange), a decree granting rights by the competent authority accompanied by the original evidence, so that all land rights before the enactment of the UUPA through conversion institutions entered into the UUPA system through its equivalent and after the enactment of the UUPA., all provisions of the UUPA are applied without worrying about the land being the former of a right that existed before the UUPA.

Supreme Court jurisprudence in MA. Reg. No. 84K/Sip/1973 dated June 25, 1973 states that records from the village book or Letter C cannot be used as evidence of property rights in court if they are not accompanied by other evidence. Other evidences include: witness testimony, confessions, suspicions, and oaths. Similarly, the evidentiary power of Letter C submitted at trial cannot be directly accepted. It is different if what is submitted as written evidence is a certificate. Certificates have a function as a strong means of proving ownership of land. UUPA guarantees legal certainty regarding land ownership through records contained in the Certificate. This is emphasized in Article 32 Paragraph (1) of Government Regulation No. 24 of 1997 which explains that a certificate is a proof of right that acts as a strong evidentiary tool regarding the physical and juridical data contained therein as long as the data is in accordance with the data contained in the measurement letter and land book of the right concerned. The evidentiary power of the certificate is stronger than that of Letter C. The certificate is an authentic deed whose evidentiary power is complete and perfect. This means that the Certificate as evidence does not require other additional evidence. Unlike Letter C, which must be accompanied by other evidence.

Based on Article 1881 Paragraph (2) of the Civil Code, the evidentiary power of Letter C which is a letter not a deed is free, left to the judgment of the judge. In the analyzed case where the judge decided that the plaintiffs' lawsuit was rejected on the basis of the Supreme Court Jurisprudence in MA. Reg. No. 84K/Sip/1973 dated June 25, 1973 states that records from the village book or Letter C cannot be used as evidence of property rights in court if they are not accompanied by other evidence. Other evidence. Meanwhile, the other evidence presented did not strengthen the Letter C evidence as the basis for ownership of the disputed object. The rejection of the lawsuit was also based on the defendant's denial, in his assessment the judge considered the evidence and facts that the defendant with the support of an authentic deed had purchased the disputed object in stages, in his consideration the judge stated that the defendants were in good faith and their purchase and transfer of the disputed object was in accordance with regulation number 10 of 1961 concerning land registration as amended by government regulation number 24 of 1997 concerning land registration as referred to in article 37 paragraph (1) of government regulation number 24 of 1997 and did not violate the law.

Government regulation number 10 of 1961 concerning land registration as amended by government regulation number 24 of 1997 concerning land registration as referred to in article 37 paragraph (1) of government regulation number 24 of 1997 is the legal basis for the judge's decision to reject the lawsuit in case No. 644/Pdt.G/2020/PN. Tng.

Conclusion

Based on the research results, it can be concluded, among others: The judge's consideration in deciding the land dispute case in case No. 644/Pdt.G/2020/PN. Tng uses a balance approach, namely the balance between the requirements determined by law and the interests of the parties involved or related to the case. The approach to making decisions with the balance theory reflects that the judge has exercised his authority as a court of law that upholds the value of justice, apart from the balance approach method the judge also uses the Ratio Decidend approach where the judge considers all aspects related to the subject matter in dispute and then looks for laws and regulations that are relevant to the subject matter in dispute as a legal basis for making decisions.

The legal basis used by the judge in the decision of case No. 644/Pdt.G/2020/PN. Tng is the legal basis regarding the strength of ownership of land rights, the plaintiff with Letter C evidence cannot be used as proof of ownership rights because of the Supreme Court Jurisprudence in MA. Reg. No. 84K/Sip/1973 dated June 25, 1973, states that records from the village book or Letter C cannot be used as evidence of property rights in court if they are not accompanied by other evidence. Meanwhile, Government Regulation No. 10/1961 concerning land registration as amended by Government Regulation No. 24/1997 concerning land registration as referred to in Article 37 paragraph (1) of Government Regulation No. 24/1997 is the legal basis that reinforces that the defendant has purchased and transferred the disputed object.

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