

## **JURISPRUDENCE ANALYSIS OF MA VERDICT NO 557/PDT/2016/PT.DKI ON THE MALAYSIAN AMBASSADOR'S LAND TITLE DISPUTE**

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### **KEYWORD**

Land dispute,  
jurisprudence, legal  
protection

### **ABSTRACT**

This research analyzes Supreme Court Decision No. 557/PDT/2016/PT.DKI regarding a land title dispute involving the Government of Malaysia and a number of parties in Indonesia. The dispute stems from a claim over land used as the official residence of the Malaysian Ambassador, which had previously been purchased under a notarial deed in 1971. This study aims to understand the application of law in dispute resolution, as well as the legal implications of this decision for the development of jurisprudence and land law practice in Indonesia. The method used is jurisprudential analysis, focusing on the legal documents and arguments presented during the trial. The results of the analysis show that this decision affirms the importance of legal protection for foreign embassies in accordance with the 1961 Vienna Convention, as well as providing clear guidelines in the settlement of land disputes. The research also found that low public awareness regarding legal land ownership is a major factor in the emergence of disputes. In addition, this study suggests the need to improve the mediation mechanism at the BPN and socialization regarding legal land ownership to reduce future disputes. As such, this research is expected to contribute to a deeper understanding of land law and improve legal certainty in Indonesia, as well as provide practical recommendations for policymakers in managing land disputes.

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### **INTRODUCTION**

Land disputes are one of the most common legal issues in many countries, including Indonesia. They arise from competing claims over the ownership or use of land, often involving various parties, such as individuals, companies and governments. In the legal realm, land disputes cover issues such as ownership, allotment, and rights to land regulated by law.

These disputes not only impact relationships between individuals, but also have significant social, economic and political consequences. In Indonesia, with the increasing demand for land

due to population growth and economic development, land conflicts have become increasingly complex. Several factors, such as unclear legal status of land, abuse of power, and differences in legal interpretation, often make matters worse.

One striking example of a land dispute is a case involving state land, customary land, and land that has been purchased by a private party. Many of the parties involved attempt to seek justice through the courts, but often the outcome is unsatisfactory for all parties. This situation emphasizes the need for a deeper understanding of land law, as well as the importance of mediation and constructive dispute resolution.

Decision No. 557/PDT/2016/PT.DKI is a decision of the DKI Jakarta High Court which decided a land title dispute between the Government of Malaysia (the Appellant/formerly the Counterclaim Plaintiff/Counterclaim Defendant) and a number of parties namely Rena W Rampschie, Frederick Matheus Pietersz and his heirs, Oding S, Wim Sondakh and Yance Simon Peter (the Appellants I-IV/formerly Defendants I-IV of the Counterclaim). This dispute stems from the Appellant's claim to the title of land at Jalan Kemang Raya No. 48 and Land Title Certificate No. 13, South Jakarta which had previously been purchased by the Appellant based on the Notarial Deed of ELIZA PONDAAG in 1971. However, the lands were later physically occupied by the Appellant and based on several other legal documents.

On this basis, the Appellant sued the Respondent at the South Jakarta District Court demanding that the Respondent vacate and hand back the lands to the Appellant. The South Jakarta District Court ruled in favor of the Appellant. The Appellant then filed an appeal to the DKI Jakarta High Court. Through the decision that is the object of this analysis, the DKI Jakarta High Court upheld the South Jakarta District Court's decision to grant the Appellant's claim.

Juridically, this decision is important to analyze because it provides a legal interpretation regarding the determination of land ownership rights based on various legal bases. In addition, this decision also provides strict guidelines related to the rights and legal protection of Embassy land in accordance with the provisions of the Vienna Convention. Therefore, the analysis of this decision is expected to contribute to the development of jurisprudence regarding land title disputes.

## **METHODS**

The jurisprudence analysis research method in this study is used to assess decision number 557/PDT/2016/PT.DKI, which discusses a land title dispute between the Government of Malaysia and various related parties, including individuals and heirs who claim rights to the land. This research aims to understand the application of law in the context of land disputes, taking into account various aspects such as ownership, allotment, and applicable legal protections. In addition, it will identify the legal arguments and considerations of the judge on which the decision is based, as well as analyze the legal documents and facts presented during the trial. Thus, it is hoped that this research can provide a deeper understanding of the legal implications of the decision, as well as contribute to the development of jurisprudence in the land sector in Indonesia, so as to help reduce similar disputes in the future and strengthen legal certainty in land management.

## **RESULTS AND DISCUSSION**

### **Application of Law in the settlement of land title disputes between the Government of Malaysia and the Government of Indonesia**

Land disputes are often caused by people's low awareness of the importance of legal certainty over the land they control. Many people are reluctant to register and certify their land certificates through the National Land Agency (BPN). This condition results in land-related legal issues not

achieving the goals of certainty and justice. Disputes often arise due to the falsification of land documents, which are used to take ownership of other people's land. This criminal act involves unscrupulous officials who collude to illegally control land. In addition, economic, social and cultural factors also often contribute to the complexity of land dispute resolution in Indonesia.

Settlement of land title disputes can be done through various provisions, litigation and non-litigation dedication. One of the most widely used procedures is mediation. In the mediation process, a mediator serves as a facilitator who helps the disputing parties to reach an agreement. This method is effective because it focuses on counseling to reach consensus, which can speed up the resolution of complex disputes. In addition, mediation involves active participation, where the mediator leads the discussion, enforces the manner, and encourages openness about the issues and interests at hand.

If mediation is unsuccessful, land disputes can be resolved through litigation. Disputes relating to the unauthorized use of land, in accordance with Law No. 51/Prp/1960, can be submitted to the general court through civil or criminal channels. The courts provide strong legal certainty, as the decisions taken have high legal force. In some cases, the Supreme Court even gives a final decision that cannot be appealed.

The National Land Agency (BPN) also contributes to land dispute resolution through administrative policies. The BPN, especially the Directorate of Agrarian Affairs, can act as a mediation venue for the disputing parties. If settlement through this route is unsuccessful, a court or arbitration body can be the next option to ensure the legal status of the land in dispute. Thus, the resolution of land title disputes can be done through an efficient and effective combination of mediation, litigation and administrative procedures.

From the decision of the Supreme Court of the Republic of Indonesia Number 557/PDT/2016/PT.DKI The application of law in the settlement of land title disputes between the Government of Malaysia and related parties is as follows:

1. The Court applied Indonesian civil law, especially on tort as stipulated in the Civil Code (KUHP). The Malaysian government as the plaintiff seeks compensation for the unlawful act committed by the defendant.
2. The Court also applied the 1961 Vienna Convention on Diplomatic Relations which has been ratified by Indonesia, specifically Article 30 paragraph (1) and Article 22 paragraph (2) regarding the protection of the official residence of foreign embassies.
3. The Court examined the case file, letters, and notarial deeds relating to the history of the land rights to determine the legal owner of the land.
4. The Court used various legal arguments to invalidate the legal deeds held by the defendants and supported the Malaysian Government's legal claim to the land. Thus the land title dispute can be legally resolved.

Overall, the application of law in the settlement of the land dispute between the Government of Malaysia and the Government of Indonesia demonstrates the importance of a comprehensive and legally grounded approach. This not only provides legal certainty for the parties involved, but also sets a precedent for future land dispute settlements. Success in resolving this dispute depends on good collaboration between government agencies, mediators and the judicial system, as well as public awareness of the importance of legal land ownership.

## **Legal implications of this decision for the development of jurisprudence and legal practice related to land disputes in Indonesia**

The legal implications for the development of jurisprudence and legal practice in relation to land disputes in Indonesia are significant. Court decisions, particularly those issued by the Supreme Court, are often referenced in the resolution of land disputes and create legal precedents that will influence future cases. With consistent jurisprudence, the public and legal practitioners have clearer guidance on their rights and obligations in relation to land ownership. For example, Supreme Court decisions that establish title to land based on official documents can be used as a reference in disputes involving unauthorized documents or forgery.

In addition, the legal implications also encourage improvements in legal practice, including improved mediation procedures and land administration by the National Land Agency (BPN). With more structured and effective mediation procedures in place, disputants can seek solutions before taking their cases to court, which is expected to reduce the burden on the courts and speed up dispute resolution. BPN plays a role in ensuring that land data and documents are properly managed, so that potential disputes can be minimized from the start.

Better legal protection of land property rights also has a positive impact on investor confidence. When investors feel their rights are legally protected, they are more likely to make long-term investments in agriculture, housing or industry. This contributes to local and national economic growth, and improves social stability by reducing conflicts that may arise from land disputes.

Based on the Supreme Court Decision Number 557/PDT/2016/PT.DKI, which provides a detailed explanation of the background of the case, there are several legal implications that can be drawn. This decision is expected to make a positive contribution to the development of jurisprudence and legal practice related to land disputes in Indonesia.

Through an in-depth analysis of the various land ownership documents included in the lawsuit, this decision is believed to be a reference for judges in examining the validity of evidence such as notarial deeds and official letters. In addition, by referring to the provisions of the 1961 Vienna Convention regarding embassy protection, this decision is expected to encourage better legal practices in resolving international land disputes.

The analysis of the elements of tort in land tenure is also expected to prevent the recurrence of similar cases in the future. The parties to the dispute are expected to be more careful in conducting transactions. Broadly speaking, the implementation of this decision is believed to increase the legal certainty of the community regarding land ownership rights and prevent long-term disputes. Such are the implications that can be drawn from this decision.

Thus, the development of strong jurisprudence and effective legal practice not only enhances legal certainty, but also supports broader economic and social development in Indonesia. Through this approach, it is hoped that people will increasingly realize the importance of legal land ownership, ultimately contributing to the creation of a more just and prosperous society.

### **What does this decision contribute to the process of resolving land disputes in Indonesia?**

Based on this document, this decision has significance in the context of Indonesian land law, especially in the settlement of land disputes involving international entities. There are several crucial points that illustrate the impact of this decision on mediation procedures and land administration managed by the National Land Agency (BPN).

First, the dispute involved land owned by the Malaysian Embassy and used as the Ambassador's official residence. In this case, the Malaysian Embassy sought legal protection for the land in accordance with the provisions of the 1961 Vienna Convention on Diplomatic Relations. The Convention sets out the diplomatic rights and protections to be afforded to foreign embassies, emphasizing the importance of the legal position of the land in the context of international relations. Given this diplomatic dimension, the dispute concerns not only property rights, but also state interests and the stability of bilateral relations between Indonesia and Malaysia.

Secondly, the land had previously been purchased by the Embassy from a third party, but was subsequently physically occupied by several defendants. This situation demonstrates the complexity that often occurs in land disputes, where legal ownership and physical possession can differ. This highlights the need for strong and transparent legal documents in any land transaction to prevent future conflicts. The unclear legal status of land is often a trigger for prolonged conflicts, requiring more attention in the land administration process.

Third, the dispute was brought to court after mediation efforts through the sending of a summons to the defendants did not result in an agreement. The mediation process, which should have been the first step to resolving the issue amicably, failed in this case. This failure demonstrates the challenges of land dispute resolution, where disputants may not always be willing to communicate or find a common solution. It therefore points to the need for improved mediation mechanisms at the BPN and other relevant institutions to be more effective in preventing disputes from proceeding to litigation.

Fourth, court decisions can affect the administration of the BPN, especially in relation to the legal status of the land that is the object of the dispute, especially if it relates to land certificates managed by the BPN. Given this decision, the BPN needs to evaluate and update its land administration policies and procedures so that data and information on land ownership remain accurate and up-to-date. This is crucial to prevent similar disputes in the future and to increase public confidence in the land system.

The judgment is expected to provide clarity on the legal status of the disputed land ownership, whether it belongs to the Malaysian Embassy or another party. If the verdict is in favor of the Malaysian Embassy, then the other parties will have to surrender control of the land, which will certainly affect land tenure practices in the relevant *kelurahan* or *kecamatan*. In addition, this decision is expected to clarify the application of international conventions regarding the embassy's protection of its land, thus providing a reference in similar cases in the future.

Finally, this decision may encourage the disputing parties to proceed with voluntary out-of-court mediation, in accordance with the provisions of land procedures. With a clear legal precedent from this decision, it is hoped that parties involved in land disputes will be more open to seeking an amicable settlement, rather than engaging in lengthy and costly litigation. This approach is in line with efforts to create a dispute resolution system that is more efficient and responsive to community needs.

Overall, the impact of this judgment on mediation procedures and land administration by the BPN can be seen as an important step towards strengthening legal certainty and improving the effectiveness of the land system in Indonesia. As such, some changes in legal practice are likely to occur as a result of this judgment, although we still need to wait for the full judgment. An in-depth analysis of the context and implications of this ruling will be useful in developing better policies in the future, as well as strengthening diplomatic relations between Indonesia and other countries.

## CONCLUSION

The judgment confirms that the disputed land is the legal property of the Malaysian Government based on valid legal deeds, providing legal certainty for the Malaysian Embassy and strengthening the application of the 1961 Vienna Convention on the legal protection of land belonging to foreign embassies. In addition, this decision demonstrates the importance of a comprehensive approach to dispute resolution, whether through mediation or litigation, where the court provides a final decision for cases that cannot be resolved through mediation. The legal implications of this decision are expected to increase legal certainty in land dispute resolution as well as provide guidelines for similar cases in the future. As such, this decision is expected to create better legal precedents, support more effective land management, and encourage improvements in land administration procedures to prevent similar disputes, while raising public awareness on the importance of legal land ownership.

### Advice

After reading and understanding the contents of this judgment we have a suggestion that the National Land Agency (BPN) strengthen land administration procedures by ensuring the accuracy and transparency of land ownership data. This is important to prevent future disputes and increase public confidence in the land system. Second, there is a need for more effective mediation mechanisms at the BPN and other relevant institutions, so that disputing parties can seek an amicable settlement before taking their issues to court. Third, socialization on the importance of legal land ownership and the land registration process needs to be strengthened, in order to increase public awareness of their rights. Finally, it is recommended that the jurisprudence of this decision be used as a guideline for similar cases in the future, so as to create a clear and consistent legal precedent in land dispute resolution, as well as strengthen bilateral relations with other countries.

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