LAND DISPUTE SETTLEMENT REVIEW FROM MINANGKABAU TRADITIONAL LAW (CASE STUDY OF LIMPULUH REGENCY, WEST SUMATRA PROVINCE CITY)

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ABSTRACT

The purpose of this research is: (1) To understand the process of clearing estate lawsuit based on the customs of Minangkabau. (2) To understand the obstacles found during the case of clearing estate lawsuit based on the customs of Minangkabau. This research, utilizes empirist method in where law is socially, culturally, and das sein because in this research, the primary datas are collected from real cases. This research proves that; (1) The clearing process of heirloom lawsuit in Minangkabau is accomplished by the system of "Ladder up" and "Stairs down" starting from the neighborhood of clan, the neighborhood of tribe, and the neighborhood of Nagari. If the clearing process were not to reach an agreement, the clearing process shall be continued to the neighborhood of Nagari. (2) The obstacles that I find in the clearing process of heirloom lawsuit can be observed from two points of view. First, from the perspective of cultural leaders is the lack of willingness, the lack of economical resources, and the letter of bequest. Second, from the perspective of prosecutors is the element of time, the lack of agreement that can be mutually reached, and differences of opinion. Based on the data of my research, it is recommended that; (1) in order to avoid the obstacles mentioned by the researcher, the side of the prosecutors should require a person that can act as mediator (not a cultural leader) in order to prevent an event in which the tribal leaders from both side might clash. (2) For the government of West Sumatra to consider making local regulation regarding the inheritance of an estate with cultural value and allow the local regulation be spread in order to avoid further compication regarding estate lawsuit.

Keywords: The clearing process of estate lawsuit; Minangkabau’s cultural laws.

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INTRODUCTION

Humans and land have a close relationship. In addition to their own interests, land is also needed for wider interests. Here we are dealing with the public interest, but the public interest has not been formulated in a standard way. The public interest hundreds of years ago had almost the same meaning as the interests of a group of indigenous peoples. The definition of public interest is too narrow or local. Although gradually the meaning has developed into a larger atmosphere, which includes legal alliances, villages, clans, regions and a combination of several villages and regions, up to what is known today as "common interests", "people's interests", "interests of the people". national”, “nation interest”, and “State interest” (Lesilawang, 2020).

Land is a necessity, every human being always tries to have it, it is a fact even though some have never owned land. After that it will keep it up no matter what. Land can be owned by anyone, individuals, communities as groups, or legal entities. One time land became inheritance or company assets and even became sacred objects. Obviously, land has economic value; the more demand and need for land, the higher the value of land, it is also unavoidable, which results in higher land conflicts (Lubis, 2021).

In fact, humans cannot be separated from the land, because in that land they were born, which is why the term "land spilled" arises, in the land they live and do activities, and it is also the soil that gives them life (in the form of food and facilities), and finally into the ground. anyway they are returned (buried). Including the main part of the land that is the source of human life is water, so the term "land-water" arises. In that land there are also places that are respected (sacred, sacred, have special values).

According to (Saiful, 2009) states that the land which is the living environment of humans (society), of course apply the rules that we call law or custom which in one place or another there are few or many differences, but there are also points of similarity that applies in a place (environment) binding and must be obeyed by anyone who lives or is in that place. This provision is described in the proverb "Where the earth is stepped on, there the sky is upheld". There are two things that cause the land to have a very important position in customary law, namely because of its nature, namely being the only object, wealth which, despite experiencing any circumstances, is still permanent in its condition and sometimes even becomes a property. more profitable and due to the fact that the land is a place of residence for the community (community), provides a livelihood for the community (community),is a place where the deceased members of the community (community) are buried, and is also a place of
residence for and-and-and-yang protectors of community) and the spirits of the ancestors of the community (community).

Until now, the settlement of land disputes is still a matter of polemic. To resolve land disputes with positive law, it is still quite difficult to get a settlement that is beneficial to both parties. This also applies to customary law, considering that because customary law is not a written rule, it will be very difficult for indigenous peoples to resolve the disputes they face.

In the Big Indonesian Dictionary it is stated that adat is a rule that is commonly followed or practiced since time immemorial; habitual way; a form of cultural ideas consisting of cultural values, norms, laws, and rules that are related to one another into one system. Adat is a cultural idea that consists of cultural values, norms, habits, institutions, and customary laws that are commonly practiced in an area. If this custom is not implemented, confusion will occur which will lead to unwritten sanctions by the local community against perpetrators who are considered deviant. In Indonesia the word "custom" was only used around the end of the 19th century. Previously this word was only known to the Malay community after their cultural encounter with Islam in the 16th century. This word, among others, can be read in the laws of the Malay State. Because the term Adat which has been absorbed into Indonesian has become a habit, the term customary law is often equated with customary law.

Based on the opinion above, it can be concluded that customary law is a legal system that is known in the social life environment in Indonesia. Thus, customary law is the original law of the Indonesian nation. The source is unwritten legal regulations that grow and develop and are maintained with the legal awareness of the community. Because these regulations are unwritten and develop, customary law has the ability to adapt and be elastic.

Regarding the issue of Indonesian customary law enforcement, this is indeed very principal because custom is a mirror for the nation, custom is an identity for the nation, and identity for each region.

Within the framework of implementing the National Land Law and due to the demands of indigenous peoples, on June 24 1999, the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 was issued concerning Guidelines for the Settlement of Problems with the Ulayat Rights of Indigenous Peoples. This regulation is intended to provide guidance in regulating and making operational policies in the land sector as well as steps for solving problems related to customary land. This regulation contains a policy that clarifies the principle of recognition of "ulayat rights and similar rights of customary law communities" as referred to in Article 3 of the Basic Agrarian Law (UUPA). These policies include equalization of perceptions regarding "ulayat rights" (Article 1), criteria and
determination of the existence of customary rights and similar rights of customary law communities (Articles 2 and 5), the authority of indigenous peoples over their ulayat lands (Articles 3 and 5). 4).

According to Vollenhoven, Indonesia is divided into 19 areas of customary law (rechtsringen). One area with uniform outlines, patterns and characteristics of customary law is called rechtskring. Each customary law environment is further divided into several sections called Kukuban Hukum (Rechtsgouw).

The customary law environment is as follows.
1. Aceh (Aceh Besar, West Coast, Singkel, Semeuleu)
2. Gayo land, Alas land and Batak land (Tapanuli). Batak land (Tapanuli)
   (a) North Tapanuli; Pakpak Batak (Barus), Karo Batak, Simelungun Batak, Toba Batak (Samosir, Balige, Laguboti, Lumbun Julu)
   (b) South Tapanuli; Padang Lawas (Tano Panjang), Angkola, Mandailing (Sayurmatinggi)
   (c) Nias (South Nias)
4. Mentawai (Pagai people)
5. South Sumatra, which consists of:
   (a) Bengkulu (Range)
   (b) Lampung (Abung, Paminggir, Pubian, Rebang, Gedingtataan, Tulang Bawang)
   (c) Palembang (Children, Jelma Daya, Kubu, Pasemah, Semendo)
   (d) Jambi (Batin and Penghulu)
   (e) Don’t
6. Malay Land (Lingga-Riau, Indragiri, East Sumatra, Banjar people)
7. Bangka and Belitung
9. Gorontalo (Bolaang Mongondow, Suwawa, Boilohuto, Paguyaman)
10. Land of Toraja (Central Sulawesi, Toraja, Toraja Baree, West Toraja, Sigi, Kaili, Tawali, Toraja Sadan, To Mori, To Lainang, Kep. Banggai)
11. South Sulawesi (Bugis, Bone, Goa, Laikang, Ponre, Mandar, Makasar, Selayar, Muna)
12. Ternate Islands (Ternate, Tidore, Halmahera, Kao, Tobelo, Sula Islands)
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13. Maluku Ambon (Ambon, Hitu, Banda, Ulisasar Islands, Saparua, Buru, Seram, Kei Islands, Aru Islands, Kisar)
14. Irian
16. Bali and Lombok (Bali Tanganan-Pagrisingan, Kastala, Karrang Asem, Buleleng, Jembrana, Lombok, Sumbawa)
17. Central Java, East Java and Madura (Central Java, Kedu, Purworejo, Tulungagung, East Java, Surabaya, Madura)
18. Royal Region (Surakarta, Yogyakarta)
19. West Java (Priangan, Sunda, Jakarta, Banten)

According to (Van Vollenhoven, Holleman, & Sonius, 2013) Of the 19 customary areas that have been divided by Prof. Mr. Cornelis (Van Vollenhoven et al., 2013), there is one area that is still very thick with its customary law, namely Minangkabau land. Minangkabau land is one of 19 customary areas known for their customs. applies in the social life of the Minangkabau people, especially those who live in Minang or West Sumatra. To a certain extent, Minangkabau customs are also used and apply to Minang people who are overseas outside the Minangkabau region. In addition, Minang land is also known for its uniqueness, namely Matrilineal or following the mother's line of descent and various kinds of customs that are still being carried out today, including customs regarding land.

According to (Rosnidar, 2017) argued that cases of tribal land disputes that occurred in Indonesia in general, especially in West Sumatra since 1985 and until now have not found a bright spot for these problems. This case begins with a male descendant of a tribe who certifies a plot of land and bequeaths the land to his son. According to Minangkabau customary law, boys only have usufructuary rights and cannot certify, inherit and trade.

From the description above, the author withdraws the letter entitled Research on Land Dispute Resolution in Tinajau from Minangkabau Customary Law (Case Study of Fifty Cities District in West Sumatra Province) on the grounds that Until now, the various efforts that have been taken by the parties to resolve the dispute are only deliberation based on the applicable Minangkabau customary law. The end result that is expected from this case is that the land of the people can be returned to the female descendants as the legal owners of the land based on customary law.

**METHOD**

In the preparation of this research, the authors conducted research using the empirical method which means law as a social, cultural or *das sein* reality because in
this study primary data obtained from the field were used. Data collection techniques were carried out in several ways, namely: Question and answer interviews were conducted with respondents from parties who have an understanding of customary law and dispute resolution with customary law. through various books and laws and regulations related to research on dispute resolution with customary law. In the preparation and writing of this research used descriptive analysis research specifications. Analytical descriptive research seeks to reveal the laws and regulations relating to legal theories that are the object of research. Likewise the law in its implementation in the community with regard to the object of research.

RESULT AND DISCUSSION

Results

Based on the results of the author's research that in the process of Land Dispute Resolution based on the rules and laws or customary law that applies in the social life of the Minangkabau community, especially those residing in the Minang realm or West Sumatra. To a certain extent, Minangkabau customs are also used and apply to Minang people who are overseas outside the Minangkabau region.

According to Mr. Aswandi Janas as Dt. Mangkuto Sinaro (Chief of the Tribe), he said that:

"Minangkabau customary law has a systematic organized organically, namely a leader consisting of functional representatives, the legal community, the harmony of the nagari, in which there are several relatives who are part of the tribes led by chief”.

The settlement of customary land disputes in Minangkabau is resolved in stages up and down, starting from the clan environment, tribal environment and nagari environment. Based on the theory developed by Ralf Dahrendorf, it states that the theory of dispute resolution is a theory that examines and analyzes the categories or classifications of disputes or conflicts that arise in society. Dt Mangkuto Sinaro said:

"The dispute resolution is resolved in stages up and down stairs, the first settlement is resolved by the four tribes (the penghulu who is dituahkan/exalted seranting), the second settlement is carried out by the ninik mamak in their respective jorong by the Jorong Customary Density (KAJ), if not finished, proceed to the respective Nagari Adat Density (KAN)

In resolving a dispute, KAN establishes peace, deliberation and consensus as long as the prevailing custom is guided by the lineage of the ranji/ranji of the tribes and peoples in dispute. In resolving disputes over the Nagari Customary Density, it is carried out by rules or methods, namely: deliberation, consensus, directly on the subject of the dispute, more applying customary law.
1) **The Level of the People**

Mr. Alizamri Rajo Lelo as Dubalang Parik Paga Adat Koto Loweh said:

"The level of the people is the first stage carried out in the dispute resolution stage in Minangkabau".

According to H. Nurullah. (2006). The settlement of customary land disputes in Minangkabau starts from the clan level. Dispute resolution at this level is carried out by means of deliberation/customary hearings. Deliberation according to the Big Indonesian Dictionary is a joint discussion with the aim of reaching a decision on problem solving, negotiation, deliberation. Mr. Dubalang also did not forget to say:

"The adat session at the clan level is only attended by the oldest man in the tribe who knows the history or origin of the land, a manti and the disputing parties, at the women's level they are not allowed to attend the adat session".

Customary meetings/trials at the tribal level are attended by customary officials including the eldest male or dispensed person who serves as the leader of the session, a manti in charge of administering the administration, and the disputing parties. At this level, women have not been included in customary deliberations/trials unless the women themselves are involved as plaintiffs or defendants, but in some disputes women usually give a mandate to the eldest brother to represent himself in the adat deliberation/trial.

2) **Tribal Level**

When the traditional deliberations/trials at the tribal level have not yet reached a consensus from both parties, then the dispute resolution proceeds to the tribal level. Mr. Dubalang said:

"If there is no consensus at the tribal level, the adat session is continued to the tribal level"

. The dispute resolution at this level is attended by adat apparatus present at the clan level, the disputing party is added to the penghulu (tribal head) who acts as the leader of the session or judge. The settlement at the tribal level is also carried out by deliberation with stages, namely: indictment (reading of the lawsuit), answers, judge's considerations and the judge's decision (penghulu). In the traditional deliberations/trials at the tribal level, women have not been included.

Even at this level, there is still no consensus in the settlement, although each tribal chief has presented, there is still no intention from the defendant to return the land.

3) **Nagari Level**
According to Mr. Dubalang Parik Paga Adat Koto Loweh That "If the customary assembly at the tribal level is not completed, it will be continued to the Nagari level with the Nagari Customary Density".

According to (H. Ahmad Hosen, 2006) System If both parties to the dispute are not satisfied with the decision at the tribal level, then the dispute resolution is brought to the Nagari level, namely in a customary trial by the Nagari Customary Density. In the interview, Mr. Dubalang also did not forget to say: "In the adat session at the Nagari level it is not the same as at the previous levels because there will be many parties present including the eldest male, penghulu, wali nagari, KAN employees, bundo kanduang, dubalang, manti and scholars. At this level, women are allowed to attend the trial, given that the high pusako is actually owned by women, so the opinion of bundo kanduang will greatly affect the adat trial at this level".

In the Nagari-level adat trial attended by traditional officials including: men who are divinated, penghulu, guardians of Nagari, KAN employees, bundo kanduang, alim ulama, dubalang and manti. The term bundo kanduang was formerly used to refer to the eldest sister of the King, but now bundo kanduang is not only limited to that but is also used to refer to the eldest mothers in the tribe who rule the Ranji tribe. The customary deliberation/trial at this level is carried out in the same stages as the traditional consultation/trial at the tribal level, except that there are more traditional apparatuses present than those present at the previous level. At this level, women who can be included in customary deliberations/trials are only limited to the disputing parties and Bundo Kanduang.

Up to the customary deliberations/trials at the nagari level, there is still no bright spot for resolving this dispute, even the authors find one thing that is odd in the dispute, namely that those who signed the grant letter kept by the defendants were not the tribal chiefs who were ampek who were considered as expert witnesses who can give legal force to the letter, but neighbors who are not even natives of the area (immigrants).

4) Judicial

Level The judicial level is the final stage of dispute resolution from customary law. Mr. Dubalang in his interview said:
"If it comes to the Nagari level there are still parties who are not satisfied with the results of the adat trial, the disputing parties can take the case to court level by bringing a decision letter from KAN".

According to (Asmar Gutji, 2011) stated that in accordance with existing procedures, customary land disputes can only be brought to court if there has been a decision from KAN. At this level, the settlement that will be carried out is no
longer customary deliberation/trial but a modern trial as is often done in courts in general with judges, clerks, lawyers for each party (if any) and of course the disputing parties. Before the dispute between the parties will be tried, the judge will appoint a mediator to mediate the disputing parties to get an agreement.

According to (Riyatna Abdurrasyid, 2005) mediation is a peaceful process in which the disputing parties submit their settlement to a mediator to achieve a fair final result, without wasting too much cost, but effective and fully accepted by both parties to the dispute voluntarily. When the mediator is also unsuccessful, the trial will continue as usual and will result in a losing party and a winning party. In some cases there are several disputes that are submitted up to the level of the Supreme Court. At the settlement level at the judicial level, the parties must provide a tando to the judge, so that the dispute can be resolved. Tando is a guarantee that must be submitted to the judge through the intermediary of the manti. The tando handed over to the judge must be in balance with the property in dispute. In the custom it is mentioned gadang wood, gadang material. In the case study raised by the author, the resolution of this dispute has not yet reached the level, for several reasons.

Customary disputes are disputes that usually occur within indigenous peoples. Minangkabau is about customary disputes, not disputes that often occur like disputes in general, this is because in general the cause of this dispute is inheritance passed down through custom. The problem in customary disputes is related to high heirlooms which do not have clarity on who the original owner of the object was. Customary disputes usually occur between families, between tribal members and tribal chiefs, even between tribes. Here, the author attaches an analysis of a land dispute case in Suliki sub-district, fifty-city district in terms of the frequency, settlement, and obstacles to customary disputes over the last 3 years.

Based on Minangkabau customary law, if the eldest daughter does not have female offspring, her lineage ends with her and inheritance. The high inheritance was transferred to another daughter who has female offspring, this means that Mr. Bayani is no longer entitled to the land and the high inheritance should be transferred to the younger brother of his mother who has female descendants. This dispute began since the death of the father Bayani (late). Initially, no one objected when Mr. Bayani (late) managed the land because Mr. Bayani was still a member of the Mandailliang tribe (his mother’s tribe), after Mr. Bayani (Alm) died, Mr. Bayani’s children continued to manage the land. When Mr. Maizar Dt. Tantamo (Alm) heard that the land had been managed by the children of Mr. Bayani (Alm) who were no longer members of the Mandailliang tribe, Dt. Tantamo visited them and asked for the land to be returned to the original owner of the high heirloom (the Mandailliang tribe). After being visited by Dt. Tantamo,
the children of Mr. Bayani (Alm) refused to return the land on the pretext that the land had been granted by Mr. Bayani to them as evidenced by the existence of a will, certificate of grant and land certificate. Until now, the children of Mr. Bayani (Alm) are not willing to return the land. This dispute will only be resolved if the high heirloom has been returned to its original owner (the Mandailiang tribe). Based on the statement from Mr. Dubalang, Baeliau said: "I assume that if this dispute is continued at the judicial level, it is possible to return the high-ranking pusako to the tribe by canceling the land certificate through the Supreme Court which is a prona program".

The assumption of Mr. Dubalang is confirmed by the Decree of the Head of the Level I Region of West Sumatra Number 08 of 1994 concerning Guidelines for the Procedure for Settlement of Customary Disputes in the Nagari Adat Density (KAN) in the Level I Province of West Sumatra. Article 5 of the Basic Agrarian Law affirms that customary law is also serve as the basis for the new agrarian law.

Analysis of the causes of dispute cases according to the author, namely:
· Mr. Bayani lacks knowledge of Minangkabau customary law because he has made a certificate for high heritage land.
· Lack of understanding of Minangkabau customary law by Prona officers who issue land certificates.
· The Certificate of Grant which is the evidence is not strong enough because it is not signed by the head of the nan ampek tribe and is only signed by the people who live around the land.

Sako and pusako disputes may occur between pariks within a tribe, between tribes within a tribe or between tribes and other tribes within a Nagari. The settlement of the dispute must be carried out by bajanjang up Batanggo down. Disputes between the pariahs in one clan must be resolved first by the mamak of the head of the heirs. This is called kusuik bulu, beak malasai. If there is a dispute between people in a tribe, it is first to settle the head of the tribe in the tribe. Because the task of the penghulu is kusuik manyalasai, karuah mampajaniah. If a dispute occurs between tribes, then this dispute is resolved by the local KAN.

According to custom, the essence of resolving a dispute is "bak mamalu malu ula in baniah, ula mati, pamalu indak broken, baniah indak damaged, land indak emblem" or also called "bak maelok rambuik in tapuang, rambuik indak putuih, tapuang indak taserak". So in resolving a dispute according to custom, it is done very wisely. Unlike litigation in court, "an loser becomes ashes, and a winner becomes a baro". Settlement of customary disputes can be carried out according to customs or regulations made by the government. In the previous discussion the author has explained the stages of dispute resolution according to custom. In 1991 the governor of the first level of West Sumatra, issued a decree no. 08 of 1994 concerning guidelines for customary dispute
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resolution procedures in the Nagari Adat Density (KAN) in the province of West Sumatra. This decision letter was born against the background of the issuance of a circular letter from the head of the West Sumatra High Court, dated 27 May 1985 no. W.3.DA.04.02.3633; who hopes that the judges of the district courts in West Sumatra suggest to the plaintiffs who file lawsuits that the high inheritance land disputes be resolved through the Nagari Adat Density (KAN) or the Minangkabau Natural Customary Density Institute in the district/municipality before being submitted to the district court. The decision also explains the stages and procedures for the proceedings in the customary court.

In the dispute discussed by the author, the settlement process has been running from the tribal level (discussion) to the nagari level (KAN). The Nagari Adat Density has issued a decision to continue this dispute to a higher level, but until the end of his life the plaintiff, namely Mr. Dt. Tantamo has not yet taken this dispute to court. After conducting interviews with several close relatives of the plaintiff, the author concludes that there are several reasons why Mr. Dt. Tantamo has not yet taken this case to a higher level including, the first considering and considering that if you want to take a case in court it costs a lot of money, close relatives also say that if you want to go to court the judge’s decision may be in contrast to what is expected by the judge. Mr. Dt. Tantamo, considering that the defendant has all the files and letters that become the power to win the trial.

Dt. Tantamo argued that this dispute could be resolved in a wise manner and not detrimental to both parties, considering that the essence of resolving a dispute according to Minang custom is "like mamalu malu ula in baniah, ula mati, pamalu indak broken, baniah indak damaged, land indak emblem “ or also called “bak maelok rambui in tapuang, rambui indak white, tapuang indak taserak”, which means hair does not break, flour is not scattered, meaning that in dispute resolution one must be good at making decisions so that no one feels aggrieved, unlike litigation in court, "When you lose, you become ashes, when you win, you become baro".

Dispute Resolution Constraints

According to Dt. Mangkuto Sinaro, he said that: "The obstacle faced in resolving disputes using Minangkabau customary law is the absence of physical evidence in the form of letters".

The obstacles that hinder the settlement of disputes in the case of children's land disputes from Mr. Bayani (late) and Dt. Tantamo are:

1. From the Perspective of Customary Stakeholders (Penghulu)
   a. Lack of will
      "after the death of dt. Tantamo, in my opinion the brothers from the family of dt. Tantamo, who is still alive, lacks the will to resolve this dispute."
Mr. Dubalang said that the brothers from dt. Tantamo is no longer interested in resolving this dispute for several reasons. This opinion of Mr. Dubalang was also confirmed in an interview I conducted with the family of dt. Tantamo.

"If it's den uni, you don't want to be father. After all, the land won't be brought to death, right?"

That's what the younger sister of dt said. Tantamo who is now the oldest living child. He also said that he did not want to have a lawsuit, let the land be used by another tribe, although he also had time to express his desire to take over the land without going through court.

b. Financial Condition

Given the increasing economic conditions, Mr. Dubalang also had time to say:

"Apart from the lack of will, the problem of funds is also a consideration because hiring a lawyer to go to court is not a small fee, not to mention the security deposit that must be paid for this dispute. Attorney fees and security deposit the plaintiff must also prepare funds for transportation considering the plaintiff's residence and the location of the Supreme Court which can be quite far and there are still many other unexpected needs for dispute resolution.

c. Letter of grant

According to (Pide, 2015) customary law for customary land applies a separate principle. What is meant by the principle of separation is the separation of land from plants and buildings on it. In connection with this principle, there is a fatwa found in the custom that the pusako land has high water that can be drunk, the results can be enjoyed, the land remains. Members of the clan only get the right to borrow from the clan, which is then called ganggam bauntuak. The holders of ganggam bauntuak only get the right to enjoy the land, they are not the owner. The owner is all members of the clan, while the ruler is the head of the heir.

According to (Winardi, 2007) stated that since Islam entered Minangkabau, grant institutions were also introduced. According to Islamic law, the property that is donated is the treasure of one's own pursuit, in everyday words the result of bone nan dalapan karek (own labor). Then this grant institution is applied to ulayat land/high pusako land. For example, the bako donates his tall pusako land to his banana cub. According to custom, the grant is not justified because it violates a separate principle: the Bako only gets a loan from the people in the form of ganggam bauntuak (borrowing rights). What the bako donated to the banana child was not the pusako land itself, but the matter of managing it or the right to enjoy the results, the pusako land itself still belongs to the bako's relatives.

Mr. Dubalang in saying "If the land has already been granted, then the grant is only valid for the life of the recipient of the grant, and cannot be continued by
the child of the recipient of the grant, with the word that the grant will terminate by itself”.

Dubalang's statement is reinforced by a customary rule that says that grants are usually determined by time, in custom it is called sailang kuciang, sailang ngeong, meaning that if the banana child who receives the grant dies, the land of high pusako returns to the bako or his tribe. The custom dictates “kabau pai kubangan tingga”, pusako babaliak ka nan punyo (heirloom returns to the owner).

1. From the Plaintiff’s Point of View (Relative of Dt. Tantamo)
   a. Time

   "Due to the busyness of different people, we cannot force them to take part in the resolution of this dispute, not to mention that this dispute is related to the prona, while the cancellation of the prona cannot be carried out in a state court or a religious court, so it must be brought to the Supreme Court again, while The trial in the national court has already taken time, starting from mediation, not to mention the trial that has been postponed for other reasons, especially if it reaches the Supreme Court, it will take a long time, it could be months or even years, so usually customary land disputes are not said. Peace from both parties to the Nagari level will definitely be allowed to remain for an indefinite period of time”.

   Time is also a very influential constraint in the settlement, it can be seen from the interviews that have been quoted by the author of the youngest brother, dt. Tantamo said that everyone's busyness is different, so if there is one person who cannot take part in the dispute resolution process then no one can judge that person, that all relevant parties must understand that the parties to the dispute already have their own families and responsibilities so they also have to take care of their own families and bringing up this dispute will take up their time for the family.

   b. There is no Consensus

   According to the Big Indonesian Dictionary, the word consensus means a discussion or negotiation that reaches an agreement or produces an agreement. Based on interviews that the author did with the younger brother of dt. Tantamo regarding the obstacles experienced in resolving the dispute, he said, "You have to report to the court there must be an agreement from all the families, but brothers and sisters want to have a father”.

   Based on the story of the younger brother dt. Tantamo initially went to court to collect a form to register the dispute, but when he told his brothers about the registration, they said that they no longer wanted to have a lawsuit and instead let the land be cultivated by the children of the father's family as what they have done so far. When the writer asked his opinion on this matter, he only said
"If you lose, you won't win later, you can't go to juo den bawo at the house of wife jo anak den.

c. Differences of Opinion

Opinion according to the Big Indonesian Dictionary (KBBI) is defined as the fruit of thoughts or estimates about a matter. Differences of opinion usually arise because of ideological differences. According to Rodee, ideology is a collection of ideas that are logically related and identify values that give legitimacy to institutions and actors. The difference of opinion that arose in this dispute occurred because the children of Mr. Bayani adhered to positive law in an effort to settle disputes, in this case they argued that in the trial the judge was bound by valid evidence, meaning that the judge could only make decisions based on the instruments used. evidence specified in the law, while Dt. Tantamo wants this dispute to be resolved by customary law considering the disputed land is high heritage land (customary land).

The previous explanation was confirmed by a statement issued by the younger sister of dt. Tantamo which reads.

"If you are den uni, don't want papaaro". (interview, 22/03/2018)

The author assumes that the younger sister of dt. Tantamo does not want to go to court with this statement. And with this also the obstacles of differences of opinion in dispute resolution are getting stronger. On the other hand, there are defendants who ignore the principles that apply to customary land, which makes the writer assume that the defendants do not make this principle as a benchmark in this short solution.

CONCLUSION

Settlement of high inheritance land disputes in Minangkabau is resolved in stages up and down, starting from the clan environment, tribal environment and Nagari (Nagari Customary Density), if at the Nagari level there is no settlement, it can be continued to the Judiciary level. After conducting interviews with several tribal chiefs, the author found that in Minangkabau custom the grant is usually determined by time, in adat it is called sailang kuciang, sailang ngeong, meaning that if the banana child who receives the grant dies, the land of high pusako returns to the bako or his tribe. The custom dictates “kabau pai kubangan tingga”, pusako babaliak ka nan punyo (heirloom returns to the owner). In conclusion, the plaintiff only needs to wait until the descendants of the father bayani are exhausted and in that way the high pusako can return to the Dt tribe. Tantamo by itself.

Based on the results of interviews that the authors conducted with several parties, the authors found that there were still many obstacles that hindered the resolution of this dispute. If viewed from the perspective of the customary holder, Mr. Dubalang said that the obstacles were the lack of will on the part of the plaintiff and
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financial problems, while from the point of view of the plaintiff the problem was in the timing and agreement between the brothers.

REFERENCE


