

**Occupation legal efforts by the community over land rights dispute of PT.
Nusantara Plantation IV Regional II North Sumatra**

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ABSTRACT

Right to Use Business (HGU) is a land right granted by the state to a legal entity to cultivate state land within a certain period of time. In practice, the physical control of plantation land by the community (occupation) often causes legal conflicts, especially over land that is still burdened by HGU, as happened to PT. Nusantara Plantation IV Region II North Sumatra. This study aims to analyze the legal position of HGU holders, examine legal arrangements regarding plantation land occupation by the community, and identify legal remedies that can be taken in resolving these conflicts. This study uses an empirical legal method with a sociological juridical approach and is descriptive analytical.

Data was obtained through literature studies and field research, including interviews with related parties, then analyzed qualitatively. The results of the study show that PT. The Nusantara IV Regional II North Sumatra Plantation has a legal status as an HGU holder as long as the right is still valid and used according to its designation. Occupation of plantation land without a valid basis of rights is an unlawful act that is contrary to agrarian laws and regulations. Legal remedies that can be carried out include non-litigation settlements through mediation and coordination with the government and the National Land Agency, as well as litigation settlement through the courts to obtain certainty and legal protection.

Keywords: Right to Use, Land Occupation, Plantation Land Conflict, Legal Certainty.

A. Introduction

Land has always been a fundamental element of human life, not only as a place of residence, a place of birth, and a place of burial, but also as a treasure of an eternal nature. Soil has a wide range of functions for human life, starting from a place to live, to activity, to returning to the soil as part of the life cycle. (Arisaputra, 2015) (Ramadhani, 2019)

In Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it is emphasized that "the earth and water and the natural resources contained therein are controlled

by the state and used for the greatest prosperity of the people." This provision is in line with the principles of justice and trust in Islamic law, as mentioned in the hadith narrated by Bukhari and Muslim: "Whoever takes away the rights of another person, even if it is only an inch of land, will be imposed on him seven layers of earth." The principles of justice and trust are also affirmed in QS. An-Nisa verse 58 which commands the delivery of the mandate to those who have the right and the determination of the law fairly.

As an agrarian country, Indonesia regulates land rights through Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), which is the embodiment of Article 33 of the 1945 Constitution. However, in practice, the implementation of land tenure and utilization often overlaps due to limited legal structures, resources, and weak legal certainty. Legal certainty itself is a situation that shows the existence of accuracy and clarity in the application of law in accordance with the purpose of its formation.

One form of land rights regulated in the UUPA is the Right to Use Business (HGU), which is specifically regulated in Articles 26 to 34 of the UUPA in conjunction with Articles 2 to 18 of Government Regulation Number 40 of 1996 concerning Right to Use, Right to Use, and Right of Use. HGU is the right to cultivate land that is directly controlled by the state for a certain period of time for agriculture, fisheries, livestock, and plantation businesses. . In the plantation sector, HGU is the main legal basis for business entities in managing state land productively.(dkk, 2011)

However, not all land that has been granted business use rights is optimally utilized by rights holders. Many plantation companies do not cultivate their land in accordance with the purpose of granting rights, so the land becomes abandoned. Data from the National Land Agency shows that abandoned land objects in Indonesia reach millions of hectares, with some of them designated as abandoned land. This situation encourages the emergence of physical control of land by landless communities, a phenomenon known as occupation.

According to Elza Syarief, one of the common forms of land disputes is land occupation by parties who are not the holder of rights or powers. The Agrarian and Spatial Planning Dictionary of the National Land Agency defines illegal occupation as the use of land without the permission of the right party or his legal attorney, which is an unlawful act as stipulated in Law Number 51 Prp. 1960. Occupation often occurs on large plantation lands, has no clear physical boundaries, and is not optimally utilized. (Syarif, 2014)(Nasional, 2017)

Socio-economic factors also strengthen the occurrence of occupation, especially the gap between the extent of plantation land controlled by the company and the condition of the surrounding community who come from a weak economic class and do not own land. Occupation emerged as a form of social resistance as well as an effort by the community to obtain a source of livelihood and create legal relations over land that had been considered not to be used fairly.

B. Research Methods

A study cannot be called research if it does not have a research method.¹ Research methods are one of the factors of a problem that will be discussed. The study was conducted using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from research results, studies, and reviews of several writings which are then summarized into a scientific paper.²

C. Discussion

1. The Legal Position of the Community on the Ownership of Land of the Business Rights of PT. Nusantara Plantation IV Regional II North Sumatra

Land rights are rights that authorize the holder of the right to use and/or benefit from the land to which he or she is the owner. The word "use" contains the sense that the right to the land is used for the purpose of erecting a building, while the word "taking advantage" contains the sense that the right to the land is used for the purpose of not erecting the building, for example, agriculture, alliances, livestock, and plantations. On the basis of the provisions of Article 4 paragraph (2) of the UUPA, the holder of land rights is authorized to use the land in question, as well as the body of the earth and water and the space on it are only necessary for direct interests related to the use of the land within the limits according to the UUPA and other higher legal regulations. (Ningtyas, 2023)

The Right to Use Business (HGU) is a form of primary land rights as stipulated in Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA). HGU is granted on state land to certain legal subjects for the benefit of agricultural, livestock, fishery,

¹ Hanifah, I., Hariyanto, H., Ginting, L., Koto, I., & Syafriana, R. (2026). Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach. *Jurnal IUS Kajian Hukum dan Keadilan*, 14(1).

² Simatupang, R. S. A., Hanifah, I., & Mansar, A. (2025). The Concept of Restitution as Legal Accountability in the Crime of Human Trafficking. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 3554-3462.

and plantation businesses within a certain period of time. As long as the right is still valid and used in accordance with its designation, the HGU holder obtains full legal protection from the state and has the authority to control, use, and take advantage of the land in question. (dkk, 2011)

Based on Article 28 of the UUPA, the right to use is the right to cultivate land that is directly controlled by the State, within a certain period of time, for agricultural, fishery or livestock companies. Article 28 paragraph (2) of the UUPA explains that the right to use the business is granted on land with an area of at least 5 hectares, with the provision that if the area is 25 hectares or more, it must use proper capital investment and good company techniques, in accordance with the development of the times.(Junaedi, 2024)

Possession of land without rights by a person or a group of people to land owned by another person can be interpreted as the act of illegally controlling, occupying, or taking over land belonging to another person illegally, against rights, or in violation of applicable legal regulations. These acts can be sued under civil law or prosecuted under criminal law. If there is a person's right to land, it should be supported by proof of rights, it can be in the form of certificates, proof of rights.

Land conflicts, especially cases over Right to Use Land, have wide implications for the community. On the one hand, people need land for various purposes such as agriculture, settlements, and local economic development. While on the other hand, companies are trying to defend what they consider to be their rights based on the permits that have been granted by the government. These conflicts often involve a variety of parties, including local communities, companies, and governments, each of which has different interests and views. The issue of determining state land is often the beginning of a dispute between the plantation party or the prospective owner of the plantation business use rights and the people who have controlled the land for a long time, so in this case the dispute that arises is between the people and the plantation company due to the state land claim.(Arpangi, 2025)

The agrarian conflict that occurred in Dolok Ilir Village, Serdang Bedagai Regency, is one example of a land conflict involving the community with a state-owned plantation company, namely PTPN IV Regional II North Sumatra. This occupation conflict arose due to differences in views and claims of control over plantation land between the local community and the company. Based on the results of field research and document studies, PT. The Nusantara IV Regional II North Sumatra Plantation is the legal holder of the HGU over the

plantation land that is the object of the conflict. This is evidenced by the existence of valid HGU certificates and the use of land for plantation business activities. Thus, juridically, PT. The Nusantara IV Regional II Plantation of North Sumatra has a strong and legal position as the holder of the land rights.

The HGU certificate is a sign of the right to provide legal certainty guarantees as stipulated in Government Regulation Number 24 of 1997 concerning Land Registration. The certificate has strong evidentiary power, both formally and materially, so that the legal position of HGU holders cannot be challenged by other parties who do not have a legitimate basis of rights. Therefore, community claims that are based solely on physical control without being supported by a valid legal basis cannot override the legal position of HGU holders.

The people of Dolok Ilir Village basically do not have a strong legal position over the land they control. Land control carried out by the community is only real control in the field (*de facto*), namely by cultivating, cultivating, and utilizing land for agricultural activities. However, the possession is not supported by a valid right basis in the form of a land rights certificate or other legal document issued by the state. As a result, land tenure by the community cannot be categorized as a legally recognized land right.

On the other hand, the physical possession of land by the community without a valid basis of rights does not give rise to a legal relationship recognized by positive law. This kind of control does not give birth to land rights, unless it is carried out through a legal mechanism regulated in laws and regulations. Therefore, the occupation of HGU land by the community can be qualified as an unlawful act, because it is contrary to the subjective rights of legitimate HGU holders and violates the provisions of laws and regulations in the agrarian sector. However, the results of the study also show that occupation by the community cannot be separated from social, economic, and historical factors. Many people are engaged in occupations due to limited access to land, pressure on economic needs, and the perception that plantation land is not optimally utilized by companies. In some cases, the community also considers that the land is customary land or ancestral inherited land that they have long controlled before the granting of HGU to the Company (Ramadhani, 2019).

Thus, in the dispute over the Right to Use the Business that occurred in Dolok Ilir Village, the land control carried out by the community without the support of written evidence in the form of a land rights certificate could not defeat the legal position of PTPN IV Regional II North Sumatra as the legal holder of the HGU. The HGU certificate owned by PTPN IV

Regional II is written evidence that has strong legal force because it is issued by an authorized agency and has gone through the land registration process in accordance with laws and regulations.

2. Legal Regulation of Occupation by the Community on Land Conflicts of Use Rights

The legal arrangement regarding land occupation in Indonesia in principle prohibits the use of land without the permission of the right party or its legal attorney. This prohibition is expressly regulated in Law Number 51 Prp. 1960 concerning the Prohibition of the Use of Land Without a Permit by the Right or Its Attorney. This provision applies to all land plots, including land that is still burdened with the Right to Use Business. In the context of HGU, the UUPA and its implementing regulations, especially Government Regulation Number 40 of 1996 concerning Business Use Rights, Building Rights, and Use Rights, give full authority to HGU holders to control and utilize land in accordance with their designation. HGU holders are also burdened with the obligation to cultivate the land optimally, maintain soil fertility, prevent environmental damage, and comply with the provisions of laws and regulations.

Occupation is a type of land dispute that often occurs in Indonesia. This act is understood as the unlawful expropriation and possession of land belonging to another person. Therefore, illegal land possession can be categorized as a criminal act. Given the high frequency of land grabbing crimes in Indonesia, the Indonesian government has formulated regulations that regulate this matter, including those listed in Article 385 of the Criminal Code, Government Regulation in Lieu of Law Number 51 of 1960 concerning the Prohibition of the Use of Land Without Permission Entitled or Proximate, and Law Number 39 of 2014 concerning Plantations, which are more specifically relevant to cases related to land expansion outside The Right to Use.

3. Legal Remedies in Land Dispute Resolution of Land Use Rights

Legal remedies in resolving land conflicts Hak Guna Usaha (HGU) in principle aim to provide legal certainty, protect the rights of legitimate parties, and maintain order and social justice in the control and use of land. In the context of the HGU land conflict between PT. Nusantara IV Regional II North Sumatra Plantation and the community, legal remedies can be carried out through two main channels, namely the non-litigation route and the litigation route, both of which are complementary and can be taken gradually according to the development of the conflict.

Mediation involves parties to the dispute by being facilitated by a neutral third party, such as local governments or the National Land Agency (BPN). In this process, the community is given the opportunity to submit their demands or claims, while the company can show the legal basis for its land tenure in the form of a valid HGU certificate.

The non-litigation approach also reflects the principle of restorative justice that focuses not only on the enforcement of formal laws, but also on the restoration of social relations and the creation of harmony in society. This is important considering that plantation land conflicts are not only related to legal aspects, but also related to social and economic factors of the surrounding community.

Nevertheless, the effectiveness of mediation depends heavily on the good faith of the parties and the willingness to reach a compromise. If one of the parties is uncooperative or rejects the outcome of mediation, then dispute resolution through non-litigation channels can be impasse and require further legal steps.

In the early stages, PTPN IV Regional II North Sumatra took an effort to resolve disputes outside the court through a persuasive and mediation approach. Mediation is carried out as a form of peaceful settlement as mandated in Article 130 of the HIR, which encourages the parties to resolve disputes through deliberation before taking the litigation route.

This mediation aims to provide understanding to the public about the legal status of plantation land that is still under the control of PTPN IV based on the valid and valid Business Use Rights. However, based on the results of interviews and field findings, the mediation efforts did not yield an agreement because the community still maintained physical control over the disputed land.

D. Conclusion

Based on the results of research and discussion on the conflict of land Use Rights (HGU) between the community and PT. Nusantara Plantation IV Region II North Sumatra, it can be concluded that the legal position of PT. Perkebunan Nusantara IV as the holder of HGU is in a legal and juridically strong position as long as the right is still valid and used in accordance with its designation. The HGU certificate provides legal certainty and legal protection for the control and management of plantation land. Land ownership by the community without a valid basis of rights has no legal force and is qualified as an unlawful act according to the provisions of national agrarian law.

Although the occupation is motivated by social and economic factors, normatively these actions are still not justified by law. Conflict resolution is carried out through non-litigation efforts in the form of persuasive approaches and mediation, but because no agreement is reached, settlement is continued through litigation. The court decision that won PT. Perkebunan Nusantara IV until it has legal force still shows that the principle of legal certainty is the main basis for resolving this dispute, which is then followed up with the implementation of an orderly and conducive execution.

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