



Lawsuit Against the Regent of Mandailing Natal Over the Location Permit for Plasma Land from the Perspective of Fiqh Siyasah (Analysis Study of Ptun Decision Number 84/G/2018/Ptun.Mdn)

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Abstract: Land or territory is the main element of a country. In the perspective of fiqh siyasah, which regulates politics and government in Islam, land dispute cases on Batahan Plasma land as occurred in the case at the Medan PTUN can be seen as part of the leader's responsibility in maintaining justice and preventing conflict in society. The purpose of the study was to find out how the Lawsuit Against the Regent of Mandailing Natal Over the Location Permit for Plasma Land from the Perspective of Fiqh Siyasah (Analysis Study of Ptun Decision Number 84/G/2018/Ptun.Mdn). Research method, Normative Law research. The results of the study, PTUN Decision Number 84/G/2018/PTUN.MDN which granted the lawsuit against the Regent of Mandailing Natal regarding the location permit for Batahan Plasma Land shows the importance of the principles of legality, justice, and public interest in government administrative actions. The Medan PTUN assessed that the permit issued by the Regent was unlawful, not through a legitimate procedure. In the perspective of fiqh siyasah, this decision reflects an effort to uphold justice, transparency, and accountability, which is in line with the principles of social justice and public responsibility. This emphasizes the role of the court in ensuring that public policies are carried out for the public interest, not for the interests of individuals or certain groups. Accurate data certainly leads to transparency and minimizes the potential for fraud in the 2024 elections.

Keywords: Lawsuit, Land, Civil Lawsuit

1. Introduction

Land or territory is a fundamental element in a country, and this is very relevant for the Indonesian nation which is known as an agricultural and archipelagic country. (Moa & Djajaputera, 2024), (Syakban & Pratiwi, 2020). In Indonesia, land has a crucial position because it is the main source for economic, social, and cultural activities of the community. In addition, land also plays an important role in organizing human life, including as a place to live, agricultural land, and natural resources. (Supriyono & Dewi, 2024), (Raromo, Wereh, & Palembang, 2024). Thus, proper land management and use are essential to support community welfare and environmental sustainability in Indonesia. In the Qur'an, it is stated that land, sky, earth, and all its contents belong to Allah SWT. This means that land is a gift from Allah that is universal and not limited to one party only. (Islamic, 2020), (Indonesia et al., 2017). Just like water, air, and sunlight, all of these elements were created to be used by all of humanity. This emphasizes that these natural resources should be used for the common good and provide benefits to everyone. (Syamsudin, 2017), (Mun'im, 2022).

As Allah SWT says in Surah Al A'raaf verse 58: *لَا خَبْثَ وَالرَّيِّ فَرَزَبٍ بِإِذْنِ نَبَأَهُ يُخْسَجُ الطَّيِّبُ وَالْبَلْدُ يَشْكُرُونَ لِقَوْمِ الْبَيْتِ نُصْنِفُ كَرْلَكَ نَكِدًا أَلَّ يَخْسَجُ*

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“And the land is good, the plants grow well with Allah's permission; and the soil is not fertile, the plants only grow miserable. Thus we repeat the signs of (our) greatness for those who are grateful.”

The position of land in the legal context in Indonesia is very important because land is considered a natural resource that has strategic value for people's lives.(Hastarini, 2022),(Ilyasa, 2020). According to the Basic Agrarian Law, land is a resource that must be managed fairly and sustainably for the welfare of society. Land rights do not only cover aspects of ownership, but also use and utilization in accordance with the principles of social justice.(Astriani & Indrawati, 2024),(Nuriyanto, 2020). Therefore, the regulation of land rights in Indonesia aims to ensure that all levels of society can obtain fair access to land, while maintaining environmental sustainability and balance. However, in reality, legal disputes over land often occur and are a major problem in society.(Supriatna, 2021),(Zulaika, 2024). This dispute covers various issues, such as ownership boundaries, use rights, and land use that can impact community welfare. Therefore, handling land disputes needs to be considered to ensure justice and legal certainty.(Temaluru & Lay, 2023),(Kusumojati & Rosando, 2021).

Based on the regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011, land problems cover various issues, including disputes, conflicts and legal issues related to land.(Rasmawati, Laturette, & Radjawane, 2022),(Hamidi & Latif, 2021). These cases must be reported to the National Land Agency (BPN) to be handled in accordance with applicable land laws and policies. Thus, if there is a problem regarding land rights or use that causes a dispute, the parties involved can submit the problem to the BPN to get a solution or appropriate handling.(Tumanduk, 2021),(HARTATI, 2020).

Issues related to the State Administrative Court are very important in the legal system and often attract the attention of legal experts. For example, in the Medan State Administrative Court, there is a case numbered 84/G/2018/PTUN.MDN which raises a land dispute at the Batahan Plasma land location(Nurjannah & Muin, 2016). This case is the core of the lawsuit filed by the plaintiff in court, showing how serious the issues related to land ownership and use are in the legal context. This reflects the need to resolve disputes fairly and in accordance with applicable legal provisions.(Arena, 2008).

In the main dispute, the Panel of Judges decided to grant the Plaintiff's lawsuit in its entirety. The Panel of Judges stated that the Joint Decree of the Regional Head, Mandailing Natal Police, and Mandailing Natal District Attorney's Office, which regulates the cessation of activities at the disputed +1,200 Ha location, is invalid. The Panel of Judges also required Defendants I, II, and III to revoke the decision and sentenced them jointly and severally to pay court costs of Rp. 21,253,800. This decision was taken at a deliberation meeting of the Panel of Judges on October 8, 2018 and announced in an open session on October 11, 2018, attended by the Substitute Clerk, but without the presence of the related parties.(Elza Syarief, 2021).

From the perspective of *siyasah fiqh*, which regulates politics and government in Islam, the land dispute case on Plasma Batahan land as occurred in the case at the Medan State Administrative Court can be seen as part of the leader's responsibility in

maintaining justice and preventing conflict in society. *Siyasa fiqh* emphasizes the importance of justice ('adl) and the benefit of the people in every action carried out by leaders or government officials. In this case, the decision by Defendants I and II to temporarily stop activities on the disputed land was aimed at preventing potential horizontal conflicts between the parties to the dispute, in accordance with the principle of *siyasa syar'iyah* which prioritizes the public benefit (*maslahah 'ammah*).

In *fiqh siyasah*, if a government decision is considered unfair or detrimental to a certain party, the party who feels disadvantaged has the right to file an objection or claim, but the court or competent authority must assess based on the principles of justice and common interest. Therefore, the final decision taken by the court in a case must consider both the public interest and individual rights in accordance with the principles of justice in *fiqh siyasah*.⁵

This research is in line with the research conducted by Febra Anugrah Pratama (2020) entitled "Analysis of Judge's Decision No. 5/Pdt.G/2017/Pn.MNA Land Dispute Case in Gelumbang Village, South Bengkulu Regency"(ULANI, 2023). The purpose of the researcher in this thesis is to find out the basis of the judge's considerations and consequences in deciding case Number 5/Pdt.G/2017/PN.Mna in the Land Dispute Case in Gelumbang Village, South Bengkulu Regency. The method used is normative law using a case approach and a statute approach. The results of this study indicate that the decision of the Manna District Court has not met the legal objectives, namely justice, certainty and benefit and the consequences for the plaintiff and defendant are the transfer of land rights that have been cultivated by the plaintiff for approximately 7 years to the defendant (Saifuddin & Qamariyanti, 2022). Which legally has permanent legal force (*Ikrah*) and no legal efforts have been made by the plaintiff. The decision of the judge of the Manna District Court Number 5/Pdt.G/2017/PN.MNA Land Dispute Case in Gelumbang Village, South Bengkulu Regency, is not in accordance with the provisions and objectives of the law because the basis for consideration is not strong enough to decide the case (FEBRIYANI, 2021).

Furthermore, research conducted by Yesicha Cristianita Ginting (2016) entitled "Case Analysis of Civil Dispute of Land Ownership with Dual Certificates (Study of Kabanjahe District Court Decision NUMBER 30/PDT.G/2009/PN.KBJ)".⁷ In the Decision of the Kabanjahe District Court Number 30/Pdt.G/2009/Kbj where Ishak Charlie filed a lawsuit regarding Land Ownership in Good Faith in this decision where a double certificate has been issued in one plot of land that has a different area and boundaries and Ishak Charli sued that he had purchased the land with existing procedures. Where in the registration of land rights to see the history of the land owned by a person in the issuance of the certificate. Because Ishak Charli filed a lawsuit regarding Land Ownership in good faith, in this case it is the domain of the Kabanjahe District Court to decide the case. This type of research is normative research, the nature of this research is descriptive analytical. The data source is primary data. Data collection techniques are carried out by means of literature studies. (ULANI, 2023). Data analysis based on qualitative and conclusion drawing is done deductively, all data is disclosed first in general terms then narrowed down to specific data disclosure. In the Decision of the Kabanjahe District Court number

30/Pdt.G/2009/Kbj, the decision of the Panel of Judges stated that the lawsuit was unacceptable because the subject of the lawsuit was incomplete so that Ishak Charlie did not get justice in the lawsuit he filed even though there were witnesses and documents that had been proven in the District Court, and in this case the certificate owned by Ishak Charlie has been declared null and void by the State Administrative Court and the one that is legally recognized by the PTUN is the Certificate owned by Syamsuddin Arifin.

Then the research conducted by Dian Saputri in 2021, a student of the State Islamic University of Sulthan Thaha Saifuddin Jambi, Faculty of Sharia, State Administrative Law study program entitled *The Authority of the Jambi Province State Administrative Court in the Settlement of Regional Head Election Disputes in Kerinci Regency in 2013*. This thesis discusses the authority of the state administrative court in examining the settlement of regional head election disputes in Kerinci Regency and also what factors influence the trial process at the PTUN.⁸ The difference between this research and the author's research lies in the focus of the research, previous researchers focused on examining the settlement of regional head election disputes in the PTUN trial, while the author only focused on the PTUN decision in the authority of the state administrative court in resolving land dispute cases, the similarities in the researchers are both related to the trials at the PTUN. Based on the explanation of the background, the researcher is interested in further researching the "Lawsuit Against the Regent of Mandailing Natal Regarding the Location Permit for Plasma Land from the Fiqh Siyasa Perspective (Analysis Study of Ptun Decision Number 84/G/2018/Ptun.Mdn).

2. Materials and Methods

In this study, the researcher used a normative legal research method. This method is carried out by reviewing various sources of literature available in the library, such as documents of decisions from the Medan PTUN, journal articles, books, related news, and reports of previous research results. In this way, researchers can obtain a more comprehensive picture and understanding of the topic being studied. The collection of legal materials was carried out through various sources, including laws and regulations, books, scientific works, and official literature that can be accessed on the internet. To analyze the data, the author used an analysis method that focused on the discussion of the PTUN Decision Number 84/G/2018/PTUN.MDN by linking it to relevant legal theories. With this approach, it is hoped that the results of the study can provide in-depth insight into the problem being studied.

3. Results and Discussion

3.1 Legal Considerations of the Medan Administrative Court in Granting the Lawsuit of PTUN Decision Number 84/G/2018/PTUN.MDN

The State Administrative Court is an institution that handles disputes between citizens and the government regarding administrative decisions or actions. Efforts to establish the State Administrative Court (PERATUN) in Indonesia have been going on for a long time, starting with the announcement of Law No. 19 of 1948 which regulates the structure and powers of the Judicial and Prosecutorial Agencies on June 18, 1948.

Then, on December 29, 1986, the President of the Republic of Indonesia ratified the State Administrative Court Bill into Law No. 5 of 1986. This law became the basis for the implementation of PERATUN, which aims to protect the law related to government administrative decisions and actions.⁹

The State Administrative Court (PERATUN) officially began operating on January 14, 1991, based on Government Regulation No. 7 of 1991. Previously, the establishment of PERATUN was announced through Law No. 10 of 1990, which regulated the establishment of three High State Administrative Courts in Jakarta, Medan, and Makassar. This law was issued on October 30, 1990 and is listed in the State Gazette of the Republic of Indonesia Number 80 of 1990. Thus, PERATUN has a clear judicial structure to handle administrative disputes between the government and the community.¹⁰

A lawsuit is a request for rights filed by a plaintiff against a defendant through the courts. In civil procedure, a lawsuit involves two or more parties: the plaintiff who files the lawsuit and the defendant who is the object of the lawsuit. Generally, a lawsuit arises because the defendant is considered to have violated the rights and obligations, thus causing losses to the plaintiff. This process aims to resolve disputes and provide justice in accordance with applicable law.¹¹

In the *Herziene Indonesische Reglement* (HIR), there are two types of lawsuits: written lawsuits and oral lawsuits. Written lawsuits are the main priority in court, in accordance with the provisions in Article 118 paragraph (1) HIR and Article 142 *Rechtsreglement voor de Buitengewesten* (RBg). Both articles state that civil lawsuits at the first level must be submitted to the District Court using a letter of application signed by the plaintiff or his attorney. Thus, only the plaintiff or his attorney has the right and authority to file a lawsuit, thus guaranteeing the formality and validity of the legal process being undertaken.

Oral lawsuits provide an opportunity for individuals who cannot read or write to file a lawsuit directly with the Chief Justice of the District Court who is authorized to try civil cases. This provision is regulated in Article 120 HIR and Article 144 RBg, and is designed to meet the needs of plaintiffs who cannot write, which are still common in Indonesia. In addition, oral lawsuits also support the lower classes who cannot afford the services of an advocate or legal representative, because they can get direct assistance from the Chief Justice to formulate a lawsuit according to their wishes. In this way, the legal system seeks to ensure access to justice for all levels of society.¹²

Legal Considerations of the Medan PTUN in Granting the Lawsuit of PTUN Decision Number 84/G/2018/PTUN.MDN, the Panel of Judges has conducted an in-depth analysis regarding the defendant's authority in issuing the disputed object. In the decision, the court considered that the defendant's actions did not have a strong legal basis, both in terms of attributive, delegative, and mandate authority. This study highlights that the decision taken by the defendant is more of an administrative policy that is not based on applicable legal norms. This indicates a deviation in the implementation of the authority that should be held by public officials.

PTUN Medan emphasized the importance of the principle of legality in administrative actions. The court stated that every decision taken by a government official must be based on existing provisions and must not harm individual rights. In this case, the defendant's decision that was not in accordance with applicable legal provisions has the potential to create uncertainty and injustice for the plaintiff. Thus, the court decided to grant the lawsuit as an effort to uphold legal certainty and protect the rights of the community.

3.2 PTUN Decision Number 84/G/2018/PTUN.MDN regarding the lawsuit against the Regent of Mandailing Natal regarding the location permit for the Batahan Plasma Land

In legal terms, a permit (*vergunning*) is defined as an approval or permission given by the government to carry out a certain action. This permit is usually required for activities that require special supervision, although the action is not completely prohibited. In other words, a permit aims to ensure that the activities carried out are in accordance with the rules and do not have a negative impact on society or the environment.¹³ A permit is an approval given by an authority or ruler in accordance with laws and regulations. In certain situations, this permit allows a person or party to deviate from the applicable provisions or prohibitions. In other words, a permit can be seen as a form of dispensation or exemption from a prohibition, which provides an opportunity for individuals or organizations to carry out actions that are usually not permitted in a legal context.¹⁴

Permits are defined in several government regulations, including: (a) Law of the Republic of Indonesia Number 30 of 2014 concerning Government Administration. In this law, a permit is explained as a decision taken by an authorized government official. This decision is a form of approval of an application submitted by a member of the public, and must be in accordance with applicable regulations. Thus, a permit is an official step required to carry out an activity regulated by law. (b) According to the Regulation of the Minister of Home Affairs Number 24 of 2006 concerning Guidelines for the Implementation of Integrated One-Stop Services, a permit is defined as a document officially issued by the local government. This permit is based on local regulations or other regulations and serves as proof of legality. Thus, the permit states that a certain person or agency is permitted to carry out a certain business or activity, thus providing legal certainty in carrying out the activity. (c) According to the Regulation of the Minister of Home Affairs Number 20 of 2008 concerning Guidelines for the Organization and Work Procedures of the Integrated Licensing Service Unit in the Region, a permit is defined as an official approval given by the regional government to an individual or legal entity to carry out certain activities. This permit aims to ensure that the activities carried out are in accordance with applicable legal provisions, as well as to protect the interests of the community and the environment. With a permit, the government can supervise and control activities that have the potential to impact the public interest.

PTUN Decision Number 84/G/2018/PTUN.MDN related to the lawsuit against the Regent of Mandailing Natal over the location permit for the Batahan Plasma Land stated that the Medan PTUN Panel of Judges granted the lawsuit with clear and in-depth legal considerations. In this case, the plaintiff argued that the permit issued by the Regent was not in accordance with applicable legal provisions and had the potential to harm the rights of the community and the environment. PTUN assessed that the Regent's actions in granting the location permit were not based on legitimate authority, and the decision-making process did not follow the established procedures, both in terms of administrative law and in the context of environmental protection.

In this study, the researcher found that the Regent's decision was also faced with the principles of social justice and public responsibility. The Panel of Judges stated that the location permit granted should have considered the impact on the local community and the public interest. Thus, the court saw that the decision not only violated administrative provisions, but also contradicted the principle of justice that must be upheld in every public policy. In its decision, the Medan PTUN emphasized the importance of transparency and accountability in decision-making, especially those concerning natural resources and community rights.

3.3 Fiqh Siyasa's view on PTUN decision Number 84/G/2018/PTUN.MDN regarding the lawsuit against the Regent of Mandailing Natal regarding the location permit for the Batahan Plasma Land

The word "fiqh" comes from the Arabic root word, "faqaha," which means to understand deeply. In this context, fiqh refers to the knowledge or understanding of the laws of the Shari'a related to practice and charity, which are taken from detailed legal sources. Meanwhile, the term (س ي ا سة) or (س ي ا سى) also comes from Arabic, which means to regulate and manage state and community affairs. This word is rooted in "sasa" which means to regulate, and in its use, siyasa includes efforts to solve problems and manage public interests. Thus, siyasa involves the actions of the ruler in managing and guiding the people to achieve prosperity and regulate the life of society as a whole.¹⁸

Terminologically, Abdul Wahab Khallaf defines siyasa as the management and regulation of community and state affairs which aims to achieve the public benefit. In his view, siyasa includes actions taken by rulers or leaders to regulate people's lives, both in social, economic and political aspects, by prioritizing the principles of justice and welfare. Louis Ma'luf defines that siyasa is an activity or action related to the regulation and management of community and state affairs, which aims to achieve public good and benefit. According to Ma'luf, siyasa includes all forms of policies and decisions taken by the government or authorities in regulating social, economic and political life, taking into account the interests of the people and justice. Thus, siyasa plays an important role in realizing stability and prosperity in a country.¹⁹

According to Imam Al-Mawardi in his book entitled *Al-Ahkam Al-Sulthaniyyah*, the scope of the study of siyasa fiqh covers various aspects of government regulation and state administration. He explained that siyasa fiqh is not only limited to sharia laws, but also involves the principles of justice, government ethics, and ways of managing

public affairs to achieve community welfare. In this context, fiqh siyasah functions as a guide for the authorities in making decisions based on the public interest and benefit of the people, as well as regulating the relationship between leaders and the community with full responsibility.

Fiqh Siyasah's view on PTUN Decision Number 84/G/2018/PTUN.MDN, which relates to the lawsuit against the Regent of Mandailing Natal over the location permit for the Batahan Plasma Land, shows that the court's decision is in line with the principles of justice and public interest in the perspective of fiqh siyasah. In this context, fiqh siyasah emphasizes the importance of public interest and protection of community rights in decision-making by public officials. This study reveals that the Regent's action in issuing a decision to stop any activity at the ±1,200 Ha location disputed by KUD Pasar Baru Batahan, the plaintiff felt disadvantaged by the decision letter, the company was hindered/unable to harvest oil palm fruit. In this case, the regent's actions were considered not to consider the public interest for PT Perkebunan Nusantara IV with the community which triggered a social conflict was considered a form of abuse of authority because he was too partial to the community without considering the impact of losses on PT Perkebunan Nusantara IV which was contrary to the basic principles of fiqh siyasah.

Public interest is the main objective of Islamic law, so realizing public interest is an important reason for a leader in formulating and determining decisions as contained in the principle:20

may Allah bless him and give him peace and blessings بِالْمَصْلَاحَةِ

"A leader's policy towards his people must be based on their welfare"

All actions or policies of an Imam (leader) towards legal subjects or objects under his leadership, where his leadership must refer to the realization of benefits in his policies.

The PTUN's decision to grant the lawsuit reflects an effort to restore balance between the interests of the government and the community. Fiqh siyasah emphasizes that every policy must be formulated by involving the community, and paying attention to the values of justice and social responsibility. In this case, the PTUN's decision to consider the location permit invalid shows a commitment to the principles of fiqh that require leaders to act for the public interest, not for personal or group interests. Thus, the court acts as a supervisor in ensuring the accountability of public officials, and ensuring that decisions taken must be within the applicable legal corridor.

The results of this study underline that the application of fiqh siyasah in a modern context can provide a relevant perspective in assessing public policy. In this case, the PTUN decision Number 84/G/2018/PTUN.MDN not only reflects compliance with the law, but also becomes a reference for the implementation of the principles of justice in government. Therefore, it can be concluded that fiqh siyasah can function as a normative basis for directing decision-making that is more responsive to the needs and rights of the community, as well as creating better governance.

4. Conclusions

Based on the discussion above, it can be concluded that: In the PTUN Decision Number 84/G/2018/PTUN.MDN, the Panel of Judges conducted an in-depth analysis of the defendant's authority, namely the Regent of Mandailing Natal, which was considered to have no strong legal basis. The Regent's decision is considered an administrative policy that deviates from legal norms, so that the PTUN emphasizes the importance of the principle of legality in administrative actions to protect individual rights and create legal certainty.

PTUN considers the location permit issued to be inconsistent with legal provisions and potentially detrimental to the community and the environment. This ruling emphasizes that public policy must consider social and environmental impacts, and emphasizes the importance of transparency and accountability in decision-making by public officials.

From the perspective of *fiqh siyasah*, the PTUN decision reflects the principles of justice and public interest. The Regent's action in issuing permits without considering the public interest is considered an abuse of authority. The PTUN acts as a supervisor to ensure the accountability of public officials, and this decision is a reference for the application of the principles of justice in government.

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