



Analysis of the Issuance of Land Use Rights in the Name of the Medan City Government from a Fiqh Siyarah Perspective (Study of Decision Number 296/G/2019/PTUN.Medan)

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Abstract : This study aims to analyze the issuance of land use rights by the Medan City Government from the perspective of Fiqh Siyarah, focusing on Decision Number 296/G/2019/PTUN.Medan. The problem in this case began with the issuance of Certificate of Use Rights Number 01653/Kesawan Village dated March 14, 2018 with a measurement letter Number 00194/Kesawan/2018 covering an area of 1,752 m² in the name of the Medan City Government. The issuance of the certificate was then challenged to the Medan PTUN by the Plaintiff who is the heir of Dalip Singh Bath, who claims to be the legal owner of the land and buildings that are the object of the case. The Plaintiff feels legally and administratively disadvantaged by this action because the issuance of the right of use was carried out without involving or paying attention to existing inheritance rights. This research is a normative legal research with a statute, conceptual, and judicial case study approach. Data were collected through literature studies and analyzed qualitatively. The research results show that the issuance of land use rights by the Medan City Government has led to ownership conflicts with heirs. From a Fiqh Siyarah perspective, government actions should prioritize justice, public interest, deliberation, and the protection of property rights. This study emphasizes the importance of synchronizing positive law with sharia principles in land management by local governments.

Key words: Fiqh Siyarah, Usage Rights, Government, Medan City, Land Disputes

1. Introduction

The issuance of land use rights by the Medan City Government raises important legal issues to be studied from the perspective of Siyarah Fiqh (Asim Arsyad, 2023), (Yahya, nd). One of the relevant cases is Decision Number 296/G/2019/PTUN.Medan, where the problem began with the issuance of the Right to Use Certificate Number 01653/Kesawan Village dated March 14, 2018 based on the measurement letter Number 00194/Kesawan/2018 with an area of 1,752 m² in the name of the Medan City Government (Ramadani, 2021). The issuance of the certificate was then challenged at the Medan Administrative Court by the plaintiffs, who are the heirs of Dalip Singh Bath. The plaintiffs claim to be the rightful owners of the disputed land and buildings. They feel they have been disadvantaged both legally and administratively because the issuance of the right of use was carried out without involving or considering existing inheritance rights. (Rahman & Winanti, 2025), (Pratama & Absori, 2024). This case demonstrates the potential for injustice in land governance if local governments ignore

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administrative procedures and the protection of citizens' rights. Therefore, an in-depth analysis of the issuance of these use rights from the perspective of Fiqh Siyasaḥ is necessary to assess their compliance with Islamic principles of justice and public welfare. (Juanda, 2024), (RIZKI AYATULLAH, 2024).

In Fiqh Siyasaḥ, the government has the authority to manage public affairs (*tadbīr al-umūr al-āmmah*), but this authority must be exercised with due regard to the principles of *maslahah* (benefit), *'adl* (justice), *syūrā* (deliberation), and *amanah* (responsibility). Government actions that contradict these principles can be considered a form of abuse of authority (*ta'addī fī al-sulṭah*) (Ibn Taymiyyah, *As-Siyāṣah asy-Syar'iyyah*, 1993).

Thus, it is important to review and analyze the actions of the Medan City Government in issuing usage rights critically from the perspective of Siyasaḥ Fiqh, so that we can find out whether these actions reflect sharia principles in government governance. (Irwansyah, nd), (HARMAYNI, 2024). In addition, this study also aims to contribute to the alignment between positive law and Islamic values in the management of state assets, especially in the context of land conflicts (*ḥifẓ al-milkiyyah*). (Priono, 2023), (Anam, Sani, Jaudi, & Solapari, 2024).

From a positive legal perspective, this case reflects administrative and legal issues in land procedures. However, when examined from the perspective of Fiqh Siyasaḥ, a branch of Islamic law that discusses (Chamdani et al., 2019), (Herlina Ratna, 2025) governance of power and government administration, these government actions need to be analyzed more deeply based on the principles of justice, welfare, and protection of property rights. (Day, 2024), (Pandapotan Damanik, Satriya Nugraha, & Fuad Nur, 2024).

Research conducted by Riska Amelia (2019) at the Islamic University of Indonesia with the title "Legal Analysis of Land Disputes Between Regional Governments and Residents from an Agrarian Law Perspective", highlights that land disputes are often caused by the issuance of land use rights certificates that should be owned privately. (Dhani, 2025), (Rahman & Winanti, 2025) This occurs due to a non-transparent administrative process and a lack of public involvement. This research focuses more on the legal and positive legal aspects, but does not link them to Islamic values or Fiqh Siyasaḥ. On the other hand, a study by Muhammad Rofiq (2021) from UIN Sunan Kalijaga, entitled "Application of Fiqh Siyasaḥ Principles in Public Asset Management by Regional Governments," discusses the importance of principles such as Justice, Benefit, Deliberation, and Trust in public asset management. However, this research is still theoretical and has not been applied to case studies of land disputes. (Yusefri & Aprizon Putra, 2023), (Suvia, 2024).

Thus, the actions of the Medan City Government in this case need to be studied in depth, not only based on state administrative law, but also by considering the ethical and sharia dimensions in governance. (Irwansyah, 2021), (Harahap, 2024). This research aims to provide a holistic understanding of the relationship between positive law and the principles of Siyasaḥ Fiqh, as well as to offer fair and beneficial solutions in the management of land assets by local governments so that there are no violations of citizens' rights. (Harahap, 2024), (Sahadi, 2021).

2. Materials and Methods

This research is a normative legal research. The approaches used include statutory, conceptual, and judicial case study approaches. The statutory approach is used to examine laws and regulations related to land use rights, such as Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and Government Regulation Number 24 of 1997 concerning Land Registration. The conceptual approach is used to examine Fiqh Siyāsah concepts relevant to land management and utilization from an Islamic perspective. Meanwhile, the judicial case study approach is carried out by analyzing Decision Number 296/G/2019/PTUN.Medan as the main case study in this research.(Ridho, 2020).

The data sources in this study consist of primary and secondary legal materials. Primary legal materials include related laws and regulations and Decision Number 296/G/2019/PTUN.Medan. Secondary legal materials were obtained from classical and contemporary Islamic legal literature, such as *As-Siyāsah asy-Syar'iyah* by Ibn Taymiyyah (1993), academic books, and relevant scientific journals. Data collection techniques were carried out through library research by reviewing primary and secondary legal materials, as well as documentation techniques to collect and organize important documents. All data were analyzed descriptively and qualitatively to illustrate the application of positive law and its relevance to the principles of Fiqh Siyāsah in the cases studied.

3. Results and Discussion

3.1 Chronology of the Dispute in Decision Number 296/G/2019/Ptun.Medan

The case in the decision number 296/G/20219/PTUN.Medan that the plaintiff initially knew there was a disputed object from the online media news of Sumut Pos on September 24, 2019 which informed that there was a statement from a Medan city government official stating that the object known as the Medan Warenhuis building and or known as the Empire Bioscoop located on Jalan Ahmad Yani VII Medan had a Right to Use Certificate with Number 01653 in the name of the Medan City Government. Based on this news, the plaintiff submitted a letter to the defendant regarding confirmation and objections regarding the issuance of the right to use certificate with Number 01653 on September 24, 2019, then followed up with a letter of request for cancellation of the right to use number: 01653 on October 9, 2019, but the plaintiff's letter did not receive a good response from the defendant where the defendant submitted a reply letter to the plaintiff on October 28, 2019 which in essence asked the plaintiff to carry out a blocking procedure for the disputed object.

The Plaintiff initially attempted to find out the existence and ownership status of the object of the case, namely the land and building of the Warenhuis or Empire Bioscoop building. In the process of searching for information, the Plaintiff discovered a banner attached to the building with the words: "This Land and Building Belongs to the Medan City Government. Land Area 1,752 m² According to the Right to Use Certificate No. 01653 Kesawan Village." From these findings, the Plaintiff obtained certainty that the land and building that were the object of the dispute had been issued a Right to Use Certificate Number 01653/Kesawan Village dated March 14, 2018 with a Measurement Letter Number 00194/Kesawan/2018 dated February 21, 2018 in the name of the Medan City Government, with an area of 1,752 m². The Plaintiff only learned of the issuance of the certificate on September 24, 2019. As a result of the issuance of the right to use, the Plaintiff felt disadvantaged because he claimed to be the legal heir to the land and

building in question. Therefore, the Plaintiff filed a lawsuit with the Medan PTUN based on Article 55 of Law Number 5 of 1986 concerning State Administrative Courts, which states that a lawsuit can be filed within 90 days from the date the decision is received or announced. In addition, the Supreme Court through Circular Letter Number 2 of 1991 provides instructions that for parties who are not the direct subject of a State Administrative decision but feel aggrieved, the deadline for filing a lawsuit is calculated casuistically from the time the party feels its interests are harmed and becomes aware of the decision.

In addition, based on Supreme Court Jurisprudence Number 5 K/TUN/1992 dated January 19, 1993, it is emphasized that a plaintiff who does not receive or is not aware of a decision by a State Administrative body or official that is detrimental to him, as regulated in Article 53 of Law Number 5 of 1986, and only finds out after the time limit for filing a lawsuit in Article 55 has passed, can still file a lawsuit with the PTUN within 90 days from the time the plaintiff becomes aware of the decision that is detrimental to his interests.

3.2 Legal Basis for the Judge in Determining the Decision in Case Number 296/G/2019/Ptun.Medan

The Panel of Judges considered three main aspects, namely the authority, procedures, and legal aspects related to the issuance of the Right to Use Certificate Number 01653 which is the object of the dispute. First, from the aspect of authority, the Panel of Judges considered that the issuance of the right to use certificate by the Head of the Medan City Land Office was legally valid. This is based on the provisions of Government Regulation Number 40 of 1996 concerning Cultivation Rights, Building Rights, and Use Rights, and is strengthened by Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999, which gives authority to land officials, including the Head of the Land Office, to grant land rights. In addition, Regulation of the Head of the National Land Agency Number 2 of 2013 Article 5 letter e also states that the Head of the Land Office has the authority to grant use rights to assets belonging to the regional government.

Second, from a procedural perspective, the Panel of Judges determined that the certificate issuance process must comply with administrative requirements as stipulated in Government Regulation Number 24 of 1997 concerning Land Registration and Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 as its implementing regulation. These procedures include the existence of a measurement letter, a Land Identification Number (NIB), and an official decision from an authorized official declaring the land's status as state land.

Third, from a legal perspective, the judge conducted the review based on the principle of *rechtmatigheid*, or administrative legality. This means that the review was conducted solely on the legal situation at the time the decision was issued (the *ex-tunc* principle), not on the legal conditions after the decision came into effect. Based on all these considerations, the Panel of Judges concluded that, in terms of authority, procedure, and administration, there were no legal defects in the issuance of the Right to Use Certificate by the Medan City Government through the Land Office.

The judge's decision in the Medan PTUN decision Number 296/G/2019/Medan Grants the Plaintiff's Lawsuit in its entirety; Declares the Decision on the Object of the Dispute in the form of a Right of Use Certificate Number: 01653/Kesawan Village issued March 14, 2018, Measurement Letter Number: 00194/KESAWAN/2018 dated February 21, 2018, Area: 1,752 M² in the name of the Medan City Government; Require the Defendant to revoke the Decision on the Object of Dispute in the form of a Right of Use Certificate Number: 01653/Kesawan Village issued March 14, 2018, Measurement Letter Number: 00194/KESAWAN/2018 dated February 21, 2018, Area: 1,752 M in the name of the Medan City Government; Sentencing the Defendant and the Second Intervening Defendant to be jointly and severally liable to pay court costs in the amount of Rp. 2,596,800 (two million five hundred ninety six thousand eight hundred rupiah).

3.3 *Analysis of Fiqh Siyasaḥ in Medan Ptun Decision Number 296/G/2019/Medan*

Fiqh Siyasaḥ emphasizes that the government has the authority to regulate public affairs and manage public assets, including land, provided that it is carried out based on the principles of justice ('adl), welfare (maṣlaḥah), deliberation (shūrā), and trust. In the Islamic perspective, land is not just a physical asset, but a trust that must be managed for the benefit of the community. Individual property rights are recognized and protected, even categorized as part of the Islamic faith. ḥuqūq al-insān (basic human rights) which must be maintained within the framework of maqāṣid al-syarī'ah. Therefore, arbitrary actions on ownership rights, without a basis in sharia and without justice, are classified as ta'addī fī al-sulṭah (abuse of power).

In the context of Indonesian positive law, these principles align with the provisions of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The UUPA states that all land in Indonesia is controlled by the state and used for the greatest possible prosperity of the people. The state acts as a regulator, not an absolute owner, and grants land rights to individuals or institutions in accordance with the public interest and principles of justice. The UUPA also prohibits monopolies and requires land redistribution to achieve social justice.

However, in practice, these principles are often violated. This is illustrated in the Medan Administrative Court Decision Case Number 296/G/2019/PTUN.Medan, which shows that the Medan City Government issued a Certificate of Use Rights for disputed land without involving the heirs who claimed legal ownership of the land. This action violates the principles of Fiqh Siyasaḥ because individual property rights include ḥuqūq al-insān (basic human rights) which are guarded in maqāṣid al-syarī'ah (Wahyuni, 2023). Therefore, ownership rights cannot be removed or transferred solely on the basis of administrative policies without deliberation and fair compensation.

Arifin (2022) emphasized that managing state assets from a sharia perspective requires transparency and justice to prevent injustice. The Prophet's hadith states that anyone who seizes an inch of another person's land will be draped around his neck on the Day of Judgment (Narrated by Bukhari, No. 2452). Ibn Taymiyyah also emphasized in *As-Siyāṣah al-Syar'iyyah* that the government is obligated to protect the people's rights and prevent injustice (Ibn Taymiyyah, 2020).

The Medan Administrative Court's decision to annul the Right to Use Certificate Number 01653/Kesawan on behalf of the Medan City Government reflects an effort to uphold the principles of justice and trustworthiness in *Fiqh Siyasah* (Islamic jurisprudence). Hasan (2021) stated that any act of power that harms individual rights must be corrected through government mechanisms or judicial institutions. By annulling the certificate and restoring the rights of the heirs, the judge upheld the principle of 'adl (justice) and ensured that public administration is not used to oppress citizens.

Classical Islamic thought also supports this. As al-Māwardī emphasized in *al-Aḥkām al-Sultāniyyah*, the main task of the ruler is to safeguard the rights of the people and uphold justice (al-Māwardī, 2021). Al-Ghazālī in *al-Mustaṣfā* also emphasized that the ruler's policies without benefit and justice do not have sharia legitimacy (al-Ghazālī, 2020).

Thus, there is a close relationship between national law and Islamic jurisprudence (*fiqh siyasah*) in regulating land ownership. Both emphasize the importance of justice, protection of property rights, and the state's responsibility in managing land for the welfare of the community. The Medan Administrative Court's ruling is a concrete implementation of the values of Islamic jurisprudence within the context of positive law, while also strengthening just and moral land governance.

The government is not only the holder of administrative power, but also the guardian of the people's trust, which is obliged to guarantee individual rights and the common good in every policy taken (Syarifuddin, 2020).

4. Conclusions

The Medan Administrative Court Decision Number 296/G/2019/PTUN.Medan demonstrates that the issuance of Right to Use Certificates by the Medan City Government without involving heirs violates the principles of justice in both positive law and legal jurisprudence. In legal jurisprudence, the government does have the authority to regulate land, but it must be based on the principles of justice ('adl), benefit (*maṣlaḥah*), deliberation (*syūrā*), and trust. Individual property rights are part of the *maqāṣid al-syarī'ah* (Islamic principles) that must be maintained. The Administrative Court's decision to annul the certificate reflects a correction of the abuse of authority and a form of protection for the people's rights. This demonstrates that the principles of legal jurisprudence can synergize with positive law in creating just and dignified land governance. Policy strategies that can synergize positive law with *fiqh siyasah* in resolving land disputes at the regional level include the integration of transparent land administration procedures, active participation of interested parties, and deliberation based on the principles of justice, benefit, and trust, with subsidiary regulations that adopt the *maqāṣid al-syarī'ah* while aligning with the UUPA. The findings of this study can serve as a model for resolving land disputes based on Islamic values in local government, emphasizing accurate verification of ownership, government and community deliberation, and the enforcement of justice through legal mechanisms aligned with *fiqh siyasah*, which are then implemented in standard operating procedures (SOPs) for local asset management to prevent abuse of authority and ensure the protection of citizens' rights.

References

- Anam, K., Sani, A., Jaudi, L., & Solapari, N. (2024). Asas Keadilan dalam Undang-Undang Pokok Agraria: Perspektif Hukum Islam dalam Pengelolaan Tanah. *Jurnal Al-Mizan*, 11(2), 358–368.
- Asim Arsyad, A. (2023). HAK TANAH ULAYAT PERSPEKTIF FIQH SIYASAH: STUDI KASUS DESA BENCAH KELUBI KECAMATAN TAPUNG KABUPATEN KAMPAR. Universitas Islam Negeri Sultan Syarif Kasim Riau.

- Chamdani, M. C., Halim, S., Jannah, W., Setyawan, D., Surtiwa, S. S., Abinowo, A., ... Indriyana, I. (2019). Tanah dan Ruang untuk Keadilan dan Kemakmuran Rakyat. STPN Press dan PPPM.
- Day, G. S. S. (2024). Prinsip-prinsip dasar tata kelola negara dalam Islam dan relevansinya dengan praktik tata kelola pemerintahan yang baik. *MADANIA Jurnal Hukum Pidana Dan Ketatanegaraan Islam*, 14(2), 39–48.
- Dhani, R. R. (2025). Kepastian Hukum dalam Sertifikat Hak Waris yang Belum Atas Nama Hak Milik. *Jurnal Penelitian Inovatif*, 5(1), 169–176.
- Harahap, S. M. (2024). Kinerja Aparat Desa dalam Penyelenggaraan Pemerintahan di Kecamatan Huristak Kabupaten Padang Lawas: Ditinjau dari Perspektif Islam. UIN Sumatera Utara Medan.
- HARMAYNI, H. (2024). KEBIJAKAN PERGESERAN PENGELOLAAN DANA DESA DARI PASIF MENJADI AKTIF SESUAI DENGAN UNDANG-UNDANG DESA DAN FIQH SIYASAH. Universitas Islam Negeri Sumatera Utara Medan.
- Herlina Ratna, S. N. (2025). *Asas-Asas Umum Hukum Perdata dalam Perspektif Modern*. Takaza Innovatix Labs.
- Irwansyah, I. (n.d.). PERDA BERNUANSA SYARIAH DI INDONESIA.
- Irwansyah, I. (2021). Pembentukan Peraturan Daerah Bernuansa Syari'ah di Sumatera Utara Dalam Perspektif Politik Hukum Dan Teori Hukum Al-Maslahah. Universitas Islam Negeri Sumatera Utara Medan.
- Juanda, A. (2024). Implementasi prinsip-prinsip tata kelola pemerintahan yang baik dalam pemenuhan hak hukum masyarakat pada Dinas Kependudukan Dan Pencatatan Sipil Kabupaten Garut perspektif siyasah dusturiyah. Uin Sunan Gunung Djati Bandung.
- Pandapotan Damanik, S. H., Satriya Nugraha, S. H., & Fuad Nur, S. H. (2024). Hukum administrasi negara: teori, prinsip, dan praktik tata kelola pemerintahan. PT. Media Penerbit Indonesia.
- Pratama, L. R. F., & Absori, S. H. (2024). Model Penyelesaian Sengketa Tanah Sriwedari Antara Pemkot Solo Dengan Ahli Waris Rmt Wirjodiningrat. Universitas Muhammadiyah Surakarta.
- Priono, B. (2023). KONFLIK PERTANAHAN ATAS TANAH ASET BADAN USAHA MILIK NEGARA (BUMN) YANG DIKUASAI OLEH MASYARAKAT. Universitas Hasanuddin.
- Rahman, R. A., & Winanti, A. (2025). Perlindungan Hukum Bagi Pembeli Hak Atas Tanah Dalam Sengketa Warisan Siraso-Raso Sumatera Utara. *JURNAL USM LAW REVIEW*, 8(1), 47–64.
- Ramadani, N. (2021). Peran Dinas Kebudayaan Kota Medan Dalam Perlindungan Dan Pelestarian Gedung Warenhuis (Dalam Tinjauan Fikih Siyasah). Universitas Islam Negeri Sumatera Utara.
- Ridho, A. J. (2020). Kebijakan Pemindahan Ibu Kota Negara Republik Indonesia dalam Perspektif Fikih Siyasah. Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta.
- RIZKI AYATULLAH, S. (2024). PRAKTIK JUAL BELI PAKAIAN BEKAS IMPOR DI KOTA BENGKULU PERSPEKTIF FIKIH SIYASAH (Studi Kasus Pasar Batam Panorama Kota Bengkulu). UIN Fatmawati Sukarno Bengkulu.
- Sahadi, E. (2021). Urgensi Peningkatan Kualitas Pelayanan Publik Dalam Mewujudkan Tata Kelola Pemerintahan Yang Baik Perspektif Siyasah Idariyah (Studi Kasus di Desa Sukaraja Kecamatan Kedurang Ilir Kabupaten Bengkulu Selatan). UIN Fatmawati Sukarno.
- Suvia, R. (2024). Implementasi Good Governance Pada Pemerintahan Kecamatan Beutong Nagan Raya Ditinjau Dari Perspektif Fiqh Siyasah. UIN Ar-Raniry Fakultas Syariah dan Hukum.
- Yahya, M. A. D. F. (n.d.). Analisis Fikih Siyasah Terhadap Mekanisme Perolehan Dan Pengelolaan Tanah Di Ibu Kota Nusantara Menurut Perpres 65 Tahun 2022. Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta.
- Yusefri, Y., & Aprizon Putra, D. (2023). Implementasi Peraturan Menteri Dalam Negeri Nomor 1 Tahun 2016 Tentang Pengelolaan Aset Desa Dalam Perspektif Yuridis Dan Siyasah Maliyah (Studi Kasus Di Desa Air Pikat, Kec. Bermani Ulu, Kab. Rejang Lebong). Institut Agama Islam Negeri Curup.