



## Conflicts as a Result of Land Measurement Errors: A Case Study of Land Ownership of the Former Mayor of Semarang

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### Article Process Abstract

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*This study explores a case that occurred on land owned by the former mayor of Semarang, Sukawi Sutarip. On land, land measurement errors occur and land ownership overlaps with other people's ownership. Conflicts between adjacent landowners were inevitable. This study aims to determine the chronology of the conflict, the causes of land measurement error and the legal consequences. This research is juridical-normative in nature, meaning that the truth of statements is measured based on positive legal norms. The data analysed is limited to secondary data collected from the internet. Data were analysed qualitatively. The results showed that it was true that there were errors in land measurement and the main causal factor was due to unprofessional officers; and give rise to legal conflict in the court. The legal consequence is that the certificate becomes legally and administratively flawed.*

*Keywords: Conflict, Land, measurement, administrative flaw*

### Abstrak

Penelitian ini mendalami kasus yang terjadi di lahan milik mantan Wali Kota Semarang Sukawi Sutarip. Di bidang tanah terjadi kesalahan pengukuran tanah dan tumpang tindih kepemilikan tanah dengan milik orang lain. Konflik antar pemilik tanah yang bersebelahan pun tidak terhindarkan. Penelitian ini bertujuan untuk mengetahui kronologi konflik, penyebab kesalahan pengukuran tanah dan akibat hukumnya. Penelitian ini bersifat yuridis-normatif, artinya kebenaran suatu pernyataan diukur berdasarkan norma hukum positif. Data yang dianalisis hanya sebatas data sekunder yang dikumpulkan dari internet. Data dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa memang terdapat kesalahan dalam pengukuran tanah dan faktor penyebab utamanya adalah karena petugas yang tidak profesional; dan menimbulkan konflik hukum di pengadilan. Akibat hukumnya adalah sertifikat tersebut menjadi tidak sah secara hukum dan administratif.

Kata Kunci: Konflik, Tanah, pengukuran, cacat administrasi

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## I. Introduction

Conflicts over land often occur everywhere because Land is an important economic asset and source of livelihoods<sup>1</sup>; it is also closely linked to community identity<sup>2</sup>, history and culture.<sup>3</sup> The causes and the solution of land conflicts have been attracting the attention of researchers. Conflicts over land can occur because of poor land governance, inappropriate land use plans, inadequate land policies, land tenure insecurity, corruption and population increase,<sup>4</sup> and the weak legal protection of land rights.<sup>5</sup> Amongst the proposed solutions are realizing legal certainty<sup>6</sup> and land registration.<sup>7</sup>

For the sake of realizing legal certainty for a parcel of land, Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) mandates the importance of carrying out cadastral registration of land.<sup>8</sup> Cadastre is a list that describes all existing land parcels in an area based on careful mapping and measurement. In land registration there are a series of activities carried out by the government continuously and regularly, in the form of collecting physical data and juridical data regarding land in certain areas.<sup>9</sup> The data is processed, recorded, and quoted for certificate issuance.<sup>10</sup>

Land measurement as an initial part of the land registration process, is an administrative activity and at the same time a legal activity.<sup>11</sup> The administrative activities referred to include the collection of physical data regarding the measured land area. The measurement results are mapped in a document called Measurement Image. Furthermore, physical data along with juridical data are recorded. Certain parts of the land book are quoted, separate documents are made for each field, in the form of a certificate of land rights.<sup>12</sup> A certificate is said to guarantee legal certainty if the certainty of physical data and juridical data is guaranteed to be true.<sup>13</sup>

Measurement of land is a legal act. This means that the entire process and the results of its activities must be carried out based on positive law. Accuracy in measurement is very necessary,

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<sup>1</sup> Hatala, A.R., Njeze, C., Morton, D. et al., 'Land and nature as sources of health and resilience among Indigenous youth in an urban Canadian context: a photovoice exploration', *BMC Public Health* 20, (2020), 538 <https://doi.org/10.1186/s12889-020-08647-z>

<sup>2</sup> Tamang, S., & Kipgen, N., 'Land' as a site of contestation: Empire, identity, and belonging in the Darjeeling Himalayas' *Ethnicities*, 23, 2 (2023), 213-234. <https://doi.org/10.1177/14687968221101400>. See also Takamasa Osawa, 'Associating Land With People: Land And Collective Identity Among The Suku Asli of Sumatra', *JANTRO, Jurnal Antropologi: Isu-Isu Sosial Budaya*, 19,2 (2017) <https://doi.org/10.25077/jaisb.v19.n2.p109-123.2017>; and Joan Hardjono, 'Ethnic Identity and Land Utilization: A Case Study in Riau, Indonesia.' *Jurnal Masyarakat Indonesia*, 39, 2 (2013), 417-425

<sup>3</sup> Yann le Polain de Waroux, Rachael D. Garrett, Mollie Chapmand, Cecile Friise, Jeffrey Hoelleg, Leonie Hodelc, Kelly Hoppingh and Julie Gwendolin Zaehring, 'The role of culture in land system science', *Journal Of Land Use Science*, 16,4 (2021),450-466, <https://doi.org/10.1080/1747423X.2021.1950229>. See also Wang J, Xu Y, Zou L, Wang Y., 'Does Culture Affect Farmer Willingness to Transfer Rural Land? Evidence from Southern Fujian, China.', *Land*, 10,6 (2021),594. <https://doi.org/10.3390/land10060594>

<sup>4</sup> Method Gwaleba and Euguene Silayo, 'A Review of the Causes of Land Use Conflicts Between Farmers and Pastoralists in Tanzania and a Proposal for Resolutions', *Journal of Economic Science Research*, 2,1 (2019), DOI:10.30564/jesr.v2i1.389

<sup>5</sup> Afrizal, & Berenschot, W., 'Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia: A Review Essay', *Journal of East Asian Studies*, 22, 2 (2022 ), 333-356. doi:10.1017/jea.2022.12

<sup>6</sup> Julyano, Mario., and Sulistyawan, A. Y., 'Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum', *Jurnal Crepodo*, 1, 1 (2019) 13-22, DOI: <https://doi.org/10.14710/crepodo.1.1.13-22>

<sup>7</sup> Yamin, Muhammad, and Zaidar Zaidar, 'Registration of Land as to Minimize the Conflict Over Land.' *Jurnal Litigasi*, 18, 1 (2017), doi:10.23969/litigasi.v18i1.311

<sup>8</sup> The concept of land registration has developed to the point where it is referred to as Complete Systematic Land Registration (PTSL). Read: Istiqamah, "Tinjauan Hukum Legalisasi Aset Melalui Pendaftaran Tanah Sistematis Lengkap (PTSL) Terhadap Kepemilikan Tanah", *Journal Jurisprudentie* , 5 ,1 (2018) , 226-235, DOI: <https://doi.org/10.24252/jurisprudentie.v5i2.5814> UWGM Samarinda; Written in UUPA, Article 19 and General Explanation

<sup>9</sup> Harsono, Boedi, 'Hukum Agraria Indonesia', Jilid 1, *Djambatan*. (2005) Read: PP No. 24 of 1997 concerning Land Registration

<sup>10</sup> Hadisiswati, Indri, 'Kepastian Hukum dan Perlindungan Hukum Hak Atas Tanah', *Journal Ahkam*, 2, 1 (2014), 118-147, <https://doi.org/10.21274/ahkam.2014.2.1.118-146>

<sup>11</sup> Excerpted from the Regulation of the Minister of ATR/Head of BPN No. 16/2021

<sup>12</sup> Candra.S, 'Sertifikat Kepemilikan Hak Atas Tanah', *Gramedia Widiasarana* , (2005) , Indonesia

<sup>13</sup> A complete description of land measurement as part of land registration can be read in PP No. 24 of 1997 concerning Land Registration

in order to obtain certainty about the area of the land. If there is a measurement error, it will definitely have serious legal consequences, namely: uncertainty over the area of land, or the emergence of conflicts between adjacent landowners. Anyone involved in land measurement errors can be subject to administrative sanctions and legal sanctions. Land registration activities, starting from land surveying, until ending with the issuance of land certificates, involve many people. All of them are organized by the Land Office.<sup>14</sup>

The case raised in this paper is a land conflict that allegedly occurred due to land measurement errors. This case occurred on land belonging to the former Mayor of Semarang Sukawi Sutarip. There is overlapping land ownership with that of other people. Conflicts between adjacent landowners are unavoidable. This case is interesting to study. The scope of research problems includes: (1) what is the chronology of the case? (2) why is there an error in land measurement? and (3) what are the legal consequences?

## II. Research Method

This research is normative legal research using a case approach.<sup>15</sup> The data analyzed is limited to secondary data, namely data that has been obtained/collected by other people and has been published. The intended publications are: (1) media coverage; (2) Level I, Appeal and Cassation Court Decisions. As an analysis tool, legal theories are used, namely legal theory as a product (legal theory) in the form of: UUPA, PP No. 24 concerning Land Registration, Ministerial Regulation ATR/Head of BPN No. 16/2021, Semarang District Court Decision Number 560/Pdt.G/2020/PN Smg, PT Semarang Decision Number 377/PDT/2019/PT Smg, MA Decision Number 2463 K/Pdt/2022, and theory as the result of expert thought, namely : conflict theory and land surveying theory. Data were analyzed qualitatively. With this method of analysis, the cases under study are studied as a whole (holistic) and interdisciplinary so that the causes of the conflict can be explained, along with its comprehensive resolution. Theoretically the results of this study are useful for improving the law on land measurement, and practically useful for learning for surveyors, so that land measurement errors do not occur again.

## III. Result and Discussion

### 1. Case Chronology

Former Mayor of Semarang, Sukawi Sutarip (SS), sued the National Land Agency (BPN) to the Semarang District Court, because part of his land of 598 square meters located at Jalan Lamongan Timur VII Number 51 Bendan Ngisor, Semarang was claimed by another person, namely Tan Yangki Tanuputera (TYT). On the ownership certificate (SHM) Number 712 of 1984, the land has been legally owned by SS, since 1993. Meanwhile, at the same location point, there is an HGB certificate No. 1079 on behalf of TYT with a land area of 675 square meters. The land was acquired through a sale and purchase, with evidence of Deed of Sale and Purchase Number 798 of 2017.<sup>16</sup>

In 2019, SS found on his land, a building was being built by TYT based on his HGB certificate. Seeing the irregularities, SS asked for an explanation from the Semarang City Land Office. The request was responded to in writing in the Certificate of Land Registration No.01.cek/2019 dated January 14, 2019, explaining that the location point of the land was actually on private land of SS. There are allegations or indications that there has been overlapping with HGB 1079 Bendan Ngisor Semarang on behalf of TYT; and SS suspected that the overlapping of the land certificates they owned was intentional.

Due to the suspicion that there was an error in measuring the land, and the appearance of multiple certificates on slices of land belonging to him, SS requested that this be resolved

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<sup>14</sup> *Ibid*

<sup>15</sup> Soekanto, Soerjono and Mamudji, Sri, ' Penelitian hukum normative,' Ed. 1. *Rajawali Pers*. 2009

<sup>16</sup> Eko Fataip , <https://www.suaramerdeka.com/semarang-raya/pr-041264514/eks-walkot-semarang-sukawi-sutarip-menang-gugatan-di-pn-kasus-sertifikat-ganda-tanahnya?page=2/>, retrieved in 1 July 2023.

administratively. However, the Land Office did not comply with the request and refused to re-measure. As a result, the conflict between SS versus TYT is unavoidable.

SS filed a lawsuit at the Semarang District Court (PN) on December 14, 2020. Through his attorney, Ace Wahyudi, SS sued TYT for ownership of HGB certificate No. 1079 on his land plot, and Semarang City BPN as co-defendant. The first trial was held at the Semarang District Court, Wednesday 21/4/2021

During the trial, the panel of judges asked the BPN, which was also the defendant, to re-measure. This is meant as proof that the land area which is said to be 598 m<sup>2</sup>, in the HGB certificate No. 1079 belonging to the defendant is 675 m<sup>2</sup>. Certainty will be obtained after repeated measurements. Legal certainty is obtained through corrections to the HGB land area recorded in the certificate to be adjusted to the results of the re-measurement.

On June 16, 2021, the Semarang District Court panel of judges granted the lawsuit SS. The decision states that the land located in Bendan Ngisor is legally owned by SS. This was corroborated by the ownership certificate number 712, the measurement letter made in 1984, and the HGB land book manual. On the other hand, HGB certificate number 1079 on behalf of TYT, and measurement letter number 30 made in 2000, were declared to have no legal force. TYT's actions that have claimed and continue to build buildings on the land are considered against the law<sup>17</sup>.

Unsatisfied with the trial decision, TYT filed an appeal at the Semarang High Court, on June 23, 2021. The court of appeal only conducted a re-examination to ascertain whether the Semarang District Court was correct in its application of the law. At this level, there is no examination of litigation subjects or the object of the case, but on the law used by the judge at the Semarang District Court level in adjudicating the case.

TYT's appeal was granted. The appeal decision, issued on October 5, 2021 stated: "Accepting the appeal. Canceled the decision of the Semarang District Court Number 560/Pdt.G/2020/PN Smg which was being appealed. Based on the appeal decision, SS filed an appeal to the Supreme Court (MA), but was rejected.

In the Supreme Court Decision Number 2463 K/Pdt/2022 dated 18 August 2022, the Supreme Court stated that after carefully examining the cassation memorandum received on 12 November 2021, and counter cassation memory respectively received on 29 November 2021 and 1 December 2021, connected with *judex facti* considerations in this case the Central Java High Court in Semarang which annulled the Semarang District Court Decision, there was no mistake in applying the law.

The basis for the judge's considerations is: First, based on the Picture of the Planning Map SHGB Number 403/Kel.Bendan Ngisor which was later upgraded to SHM Number 712/Kel.Bendan Ngisor with an area of 598 m<sup>2</sup> on behalf of the Plaintiff SS, bordering the north with the land object of the conflict SHGB No. 1079/Kel. Bendan Ngisor with an area of 675 m<sup>2</sup> in the name of the Defendant TYT, indicating that there is no overlap between the Plaintiff's and Defendant's lands.

Second, based on the Minutes of measurement of the land plot belonging to the SHM Plaintiff Number 712/Kel. Bendan Ngisor with an area of 598 m<sup>2</sup> is not located on the location of the object land conflict owned by the Defendant SHGB Number 1079/Kel. there is no overlap with the plaintiff's land because the position of the land is different.<sup>18</sup>

Third, therefore the Defendant who is constructing a building on the object of conflict which is part of SHGB No. 1079/Kel. Bendan Ngisor with an area of 675 m<sup>2</sup> on behalf of the Defendant TYT is not an illegal act.

Fourth, because the position of the land owned by the Plaintiff based on SHM Number 712/Kel.Bendan Ngisor with an area of 598 m<sup>2</sup> is different from the land owned by the Defendant

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<sup>17</sup> Eko Fataip, op.cit.

<sup>18</sup> Land boundary disputes are even more complicated when the boundaries are meant between countries. Even though the scale is different, the accuracy of setting boundary markers is very important for conflict prevention and resolution. Read: Septarina, M., 'Sengketa-Sengketa Perbatasan di Wilayah Darat Indonesia', *Al' Adl*, VI, 11 (2014)

based on SHGB Number 1079/Kel.Bendan Ngisor with an area of 6752 m<sup>2</sup>, the Plaintiff's claim has no legal basis.

Based on the considerations above, the *judex facti* decision in this case is not contrary to law and/or statutory law, so the cassation petition filed by the Cassation Appellant SS was rejected.<sup>19</sup>

Regarding the subject matter, the cassation of SS was rejected, because based on the planning map SHGB Number 403/Bendan Ngisor, which was later upgraded to SHM Number 712/Bendan Ngisor on behalf of SS, in the north it is bordered by SHGB Number 1079/Kel.Bendan Ngisor owned TYT. Based on the Minutes of land measurement, SHM Number 712 owned by SS is not located on owned land TYT, but is located in another place adjacent to SHGB Number 410/Bendan Ngisor. The location of the object of conflict of ownership TYT does not overlap with the location of owned land SS, because the position of the land is different. Thus, this land conflict was won TYT. The cassation at the Supreme Court was terminated on August 18, 2022. SS could still submit extraordinary legal remedies, in the form of a judicial review (PK). However, PK's efforts could not hinder the execution of the cassation decision.

The case reveals a land conflict. The object is land and the subjects are SS versus TYT. The institution involved is the Semarang Land Office. The conflict occurred due to maladministration,<sup>20</sup> which often happens in Indonesia such as in Lampung,<sup>21</sup> Jakarta,<sup>22</sup> and Riau.<sup>23</sup> There are some forms of maladministration.<sup>24</sup> In this case, the form of maladministration is land measurement errors. Efforts to resolve conflicts are carried out through courts, from the District Court, High Court, to the Supreme Court. There is already a Supreme Court decision that has permanent legal force (*inkracht*).

## 2. Land Measurement Error

Land measurement, as the beginning of the land registration process, is crucial in obtaining data on land boundaries, location and area. From a juridical-normative perspective, land measurement activities are regulated in Permen ATR/Head of BPN No. 16/2021.<sup>25</sup> This regulation is the third amendment to the Minister of Religion/Head of BPN No.3/1997, as the implementation of PP. No. 24/1997.

Land surveying activities include: (1) making a basic registration map; (2) determining the boundaries of land parcels; (3) measurement and mapping of land parcels and preparation of registration maps; (4) making a land register; and (5) making measurement letters. Measurements carried out by the Land Office now using the delimitation contradiction principle and carrying out cadastral measurements with the latest measuring instruments.<sup>26</sup>

Land surveying is carried out by a surveyor. They are in the Land Office organization. In such a position, whoever surveyor will be assigned, the authority lies with the Land Office to determine it. The Head of the Land Office must understand very well the ins and outs of land surveying, both from a juridical and technical perspective. The surveyor should work

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<sup>19</sup> Annizar, Baihaqi., Kasasi Sukawi Ditolak, Tan Yangky Menangkan Konflik Pertanahan di Semarang, dalam: <https://jatengtoday.com/kasasi-sukawi-ditolak-tan-yangky-menangkan-konflik-pertanahan-di-semarang> - 15 November 2022, 5:47 PM

<sup>20</sup> Bowden, E, 'Mal-administration: A Thematic Analysis of Nigerian Case Studies in the Context of Administrative Initiative'. *Human Organization*, 35, 4 (1976),392-399

<sup>21</sup> Shandi, patria Airlangga ; Tisnanta, HS and Sumarja, FX., 'Maladministration in Land Dispute Resolution Services in the Lampung Provincial National Land Agency,' *Discussion Paper*. EAI, European Union Digital Library, (202

<sup>22</sup> Tritama, A. P., 'Pencegahan Maladministrasi Yang Dilakukan Oleh Ombudsman Jakarta Terhadap Pelayanan Publik Dalam Bidang Pertanahan. *Brawijaya Law Student Journal*, (2022).. Retrieved from <http://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/4676>

<sup>23</sup> Wahyudi, Rodi, Jalaluddin Abdul Malek, and Azmi Aziz, 'Perilaku Maladministrasi Birokrasi Dalam Pelayanan Publik Di Kota Pekanbaru, Provinsi Riau: Faktor Penyebab Dan Solusinya,' *Jurnal Administrasi Publik*, 2, 1 (2015), 55-70

<sup>24</sup> Sudjito Sudjito, 'Maladministration In Land Acquisition Of Public Interest (Case Study: Solo-Yogyakarta Highway Project), *Dinamika Hukum*, 23,1 (2023), 89-110 DOI: <http://dx.doi.org/10.20884/1.jdh.2023.23.1.3436>

<sup>25</sup> Detailed arrangements regarding land measurement are regulated in Permen ATR/Head of BPN No. 16/2021

<sup>26</sup> Ignatius Harun Natadiarta, Nabitatus Sa'adah, Anggita Doramia Lumbanraja, 'Permasalahan Perbedaan Luas Tanah Antara Letter C dengan Hasil Pengukuran Pada Pendaftaran Tanah Pertama Kali,' *NOTARIUS*, 13, 2 (2020), 504-515, DOI: <https://doi.org/10.14710/nts.v13i2.31070>

professionally, so that measurement errors do not occur. There must be anticipation of the occurrence of measurement errors, and if for some reason there is a measurement error, it needs to be resolved quickly and accurately.<sup>27</sup> Measuring wrongly can result in a very bad effect on the owner, because in this case the land is a property right and can be traded, but with this measurement error it can sometimes be cause bad things and can be detrimental to the owner.<sup>28</sup>

The allegation of land measurement errors in the SS versus TYT case is based on the following facts:

- a. In 2019, there was a development process over SHM on behalf of SS by TYT.
- b. SHM on behalf of SS and SHGB on behalf of TYT are at the same point of location.
- c. An irregularity in the point and location of the two plots of land has been confirmed by the Land Office in writing in the Certificate of Land Registration No.01.cek/2019 dated January 14 2019. This was allegedly due to overlapping with HGB 1079 Bendan Ngisor Semarang on behalf of TYT.
- d. Overlapping land ownership certificates, only occurs if there is an error in measuring the land, followed by an error in mapping, setting boundaries, and issuing the certificate.
- e. SS suspects that the overlapping of land certificates in his possession is intentional, and therefore requests a re-measurement. But the request was not granted by the Semarang Land Office.
- f. For the sake of legal certainty, the court route is chosen as an alternative settlement. Examination of this case in court turned out to be more focused on the issue of ownership claims, and not the problem of land measurement errors. Based on the evidence and witnesses, the judge's verdict at the first level SS was won. However, at the appeal level TYT the change was won. Finally, at the cassation level, TYT still won.
- g. An important note in this case is that the cassation decision proved that there was overlapping land ownership. Not SHM land SS and SHGB land TYT, but overlapping SHM land SS with other land, outside the object of conflict. Based on the Minutes of measurement of the land parcels, SHM Number 712 owned by SS is not located on the location of owned land TYT, but is located in another place adjacent to SHGB Number 410/Bendan Ngisor. The location of the object of conflict of ownership TYT does not overlap with the location of owned land SS, because the position of the land is different.

The facts above indicate that the allegation of land measurement errors, resulting in overlapping land ownership between SS and TYT, is proven to exist. The SHGB of TYT land does not overlap with some SHM SS, but it does overlap between SHM SS and SHGB No.410/Bendan Ngisor.

To resolve this case completely,<sup>29</sup> it is necessary to re-measure the entire adjacent lands. The Land Office's refusal to request SS for re-measurement cannot be justified. The refusal can be categorized as a form of maladministration. Re-measurement finally carried out by order of the judge. This is proof that the validity of the area of land parcels, including the boundaries of the land can only be obtained if the case is resolved in court.

Through repeated measurements, valid evidence was obtained that SHM Number 712 owned by SS was not located in the location of private land TYT, but was located in another place adjacent to SHGB Number 410/Bendan Ngisor. The location of the object of conflict of ownership

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<sup>27</sup> Fadhilah, Nurul Laili., 'Antisipasi dan Penyelesaian Konflik Jika Salah Ukur Tanah,' <https://www.hukumonline.com/klinik/a/antisipasi-dan-penyelesaian-konflik-jika-salah-ukur-tanah-lt5df2d8bce942b>, retrieved 22 Apr 2022 06:56 WIB

<sup>28</sup> Wahyu Ramadhan, 'Implikasi Hukum Terhadap Salah Ukur Tanah Milik Masyarakat oleh BPN Kota Langsa,' *Jurnal Ilmu Hukum Kyadiren*, (2020), 1-13, DOI: 10.46924/jihk.v5i2.29

<sup>29</sup> Adequacy of land ownership boundaries, is very necessary. Apart from the sake of legal certainty between sectors or between regions of the country, it is also for the realization of a healthy physical and non-physical environment. Read: Herdiansyah, H., Soepandji, B.S., Seda, F.S., and Dewi, O., 'Conflict Management of Renewable Natural Resources on the Indonesia-Malaysia Border: A Sustainable Environmental Approach,' *Procedia Environmental Science*, 20, (2014), 444-450. <https://doi.org/10.1016/j.proenv.2014.03.056>

TYT does not overlap with the location of owned land SS, because the position of the land is different.

This case indicates that the surveyor has not been able to work professionally. There are still measurement errors, both the process and the results. It is worth asking, have the juridical-normative provisions in terms of repairing registration maps, measuring drawings, and measuring data actually been consistently implemented?! This fact indicates the importance of coaching as part of bureaucratic reform.<sup>30</sup>

It is also worth remembering that a request for re-measurement can be filed if: the land becomes the object of a case in court, and/or implements a court decision. In the event that land is the object of a case in court, measurements can be made at the request of the judge examining the case, to ascertain the location and boundaries of the object of the lawsuit being disputed.

In the event that the case is a boundary conflict between bordering parties, the designation of boundaries must be made by the litigating parties; or a conflict of control and ownership, the designation of boundaries must be made by the plaintiff. The measurement of the plaintiff must present the bordering parties. The result of the measurement of the land parcel is in the form of a Land Plot Map using a temporary identification number and a note is given that the measurement was carried out in the framework of a court request for the object of the lawsuit being contested.

In the event that the object of the case is land for which certificates have been issued in the names of not the parties to the dispute or are land assets of Government Agencies/Regional Government/State Owned Enterprises/Regional Owned Enterprises, the judge handling the case shall present the certificate owner or land user/manager. assets of Government Agencies/Regional Government/State Owned Enterprises/Regional Owned Enterprises.

In the event that the object of the case has a court decision that has obtained permanent legal force, the temporary identification number that has been given cannot become a Land Plot Identification Number.<sup>31</sup>

In the case of land measurement as the execution of a court decision, an application is submitted by the court clerk to ascertain the location and boundaries of the land. The designation of the boundaries of land parcels must be carried out by the bailiff, according to the object of the claim and is responsible for the location and boundaries of the land object of execution that he shows.

In terms of carrying out land measurements, the winner of the case must present the bordering parties. The results of the land measurement are in the form of a Land Plot Map using the Land Plot Identification Number (NIB) and a note is given that the measurement was carried out in the context of executing the court decision.<sup>32</sup>

Related to the chronology of the case, it can be seen that the settlement of the alleged land measurement error case was resolved in court. Each party, through their proxies, submits the necessary evidence and testimony to prove the truth. The trial process turned out to be complicated, long, and costly. This fact indicates the importance of legal protection for parties who stumble on land cases.<sup>33</sup>

### 3. Legal Consequences of Land Measurement Errors

Explicitly stated in the Ministerial Decree of ATR/Head of BPN No. 16/2021 that maintenance of registration maps, measuring drawings, and related measurement data is the responsibility of the Head of the Land Office. In the event that there are registration maps,

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<sup>30</sup> Cope, G. H., 'Bureaucratic Reform and Issues of Political Responsiveness', *Journal of Public Administration Research and Theory*, 4,1 (1997), 461-471.

<sup>31</sup> Written on the Ministerial Decree of ATR/Head of BPN No. 16/ 2021 Article 74, 74A

<sup>32</sup> Written on the Ministerial Decree of ATR/Head of BPN No. 16/ 2021 Article 74B.

<sup>33</sup> Ediwarman, 'Perlindungan Hukum Bagi Korban Kasus-Kasus Pertanahan', (2003) *Pustaka Bangsa Press*. See also Selly Regina Br. Sitepu, Ediwarman Ediwarman, Marlina Marlina, M. Ridha Haikal Amal, 'Kebijakan Hukum Pidana Terhadap Pertanggung Jawaban Pidana Penguasaan Tanah Tanpa Hak Sebagai Tindak Pidana Ringan (Studi Pengadilan Negeri Lubuk Pakam)', *ARBITER Jurnal Ilmiah Magister Hukum*, 2, 1 (2020), 33-41

measuring drawings, and related measurement data that are damaged or lost, the Head of the Land Office is required to correct or return the information data.<sup>34</sup>

In the event that the measurements for making registration maps and measuring drawings have technical errors in the measuring data, the Head of the Land Office can correct these errors. In the case of making a registration map which is carried out using the photogrammetric method, there is a mistake, namely the plot of land being mapped does not match the actual situation in the field, then based on measurements in the field the Head of the Land Office can correct the registration map. In the event that a land parcel that has been re-measured has already been issued a certificate, in addition to making changes to the measuring drawings and registration maps, changes to the measurement certificate are also made.

Land measurement errors have a direct impact on the absence of legal certainty over the land in question. On a broader scope, the legal consequences of errors in land measurement need to be studied on the culprit, namely the surveyor. If the land measurement error occurs due to negligence, limitations, or other things unintentionally, then he needs to be subject to administrative sanctions. However, if the land measurement error occurs on purpose, then the act can be categorized as a criminal act, and therefore a criminal sanction is given.<sup>35</sup>

Furthermore, when the measurement results are wrong, and this is detrimental to the owner of the land, the owner has the right to apply for the measurement results and all accompanying documents (including land certificates) to be corrected. This application must be served by the Land Office, without payment. In addition, if the loss of the land owner can be calculated materially, and then asked to be compensated, then the surveyor and the Land Office should be responsible for providing compensation. The legal process through the courts, in civil lawsuits can be used to obtain the intended compensation.

Errors in land measurement, allegedly also occurred in other places. One example is the case in Langsa City. In Wahyu Ramadhani's research, it was found that the legal consequence of land measurement errors is that the measurement results can be canceled, along with the cancellation of the certificate. Double certificates in which there are overlapping land ownership, must be cancelled. However, the cancellation is only made by BPN if there is a request from the interested parties.<sup>36</sup>

Other studies have found the fact that anticipating measurement errors, as well as settling the legal consequences of measurement errors, along with cancellation of certificates, is not easy. Several factors contributed to this, including: (1) there was bad ethics from the other party, and trying to hinder mediation, as a prerequisite for certificate correction; (2) if the mediation fails, then the last alternative is submitted to the Court. This method is really not easy, and requires a lot of money and a long time.<sup>37</sup>

In the case of SS, it is not yet known how his attitude towards the Supreme Court's cassation decision was. It is still open to apply for a review (PK) of the case, but will this opportunity be used or not? Until now there is no clarity. Any choice for SS has consequences on the cost of financing that must be borne. After all, whichever choice, there is no guarantee he will win.

It is clear that the legal consequences of land measurement errors are conflicts. In a theoretical perspective, the term "conflict" is etymologically derived from the Latin "con" which means together, and "fligere" which means clash or collision. In general, the term social conflict contains a series of phenomena of interpersonal conflict and conflict, ranging from class conflict to international conflict and war. In its extreme form, the conflict is carried out not only to maintain life and existence, but also aims to annihilate the existence of other people or groups who are seen as opponents or rivals.<sup>38</sup>

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<sup>34</sup> Written on the Ministerial Decree of ATR/Head of BPN No. 16/ 2021 Article 41

<sup>35</sup> Basuki, Ahmad., 'Pertanggungjawaban Pidana Tindakan Mal-Administrasi Dalam Penerbitan Izin Di Bidang Lingkungan,' *Jurnal Perspektif*, 16, A (2011), 252-258

<sup>36</sup> Wahyu Ramadhan., 'Implikasi Hukum Terhadap Salah Ukur Tanah Milik Masyarakat oleh BPN Kota Langsa,' *Jurnal Ilmu Hukum Kyadiren*, (2020), 1-13, DOI: 10.46924/jihk.v5i2.29

<sup>37</sup> Florianus SP Sangun, 'Tata Cara Mengurus Sertifikat Tanah, Cetakan Kelima,' *Transmedia Pustaka*, ( 2009)

<sup>38</sup> Elly M. Setiadi dan Usman Kolip, 'Pengantar Sosiologi,' *Kencana*, (2011)

The conflict between SS versus TYT can be categorized as a social conflict. There is a clash of interests between the two parties. The conflict is personal. The scope is small, limited to the boundary of the land. Such conflict is a social phenomenon that is prone to occur everywhere, and legal certainty in ownership could be the best solution.<sup>39</sup>

On the other hand, conflict is an intrinsic aspect and cannot be avoided in social change. Conflict is an expression of the heterogeneity of interests, values, and beliefs that emerge as new formations brought about by social change that emerge against inherited barriers.<sup>40</sup> Conflict is a normal phenomenon and at a certain point is considered important to achieve a change.<sup>41</sup>

The social phenomenon in the form of interest in land is increasing. This is social change that takes place massively. No one, neither SS nor TYT, is willing to have their land reduced as a result of measurement errors. The conflict that took place between the two, is a micro-scale picture of the macro-scale in Indonesian society.

Ralf Dahrendorf in Olaf Kühne,<sup>42</sup> and<sup>43</sup> put forward the main premises of the conflict, namely:

- a. Every society is subject to constant and universally present change (ubiquity of change).
- b. Every society knows social conflicts (ubiquity of the conflict).
- c. Each member of the society contributes to the change of the society (ubiquity of productivity).
- d. Every society is characterized by power relations in which members of the society exercise power over other members (ubiquity of domination)

In social reality, conflict is often assumed to be negative. The SS versus TYT conflict is no exception. Social analysis always indicates that the existence of social conflict is connoted as a sad condition for some other social groups. That is, the conflict had a social impact. Even people who are not involved in the conflict become affected by the conflict. The basic assumption is that society can provide a good life for others. It's just that social reality shows that some people are oppressed because of differences in interests. This in time will lead to awareness that differences in interests are just as important as agreement on rules. For the sake of achieving interests, negotiations need to be carried out between community groups, until a consensus is reached. Thus, realistically conflict can have implications for discomfort. But on the other hand, conflict is an antithesis, as a solution to a social problem.<sup>44</sup>

Conflict, as a product of social relations, according to George Ritzel, is divided into 3 categories, namely: (1) cultural conflict; (2) structural conflict; and (3) direct conflict.<sup>45</sup> The SS versus TYT conflict is not a cultural conflict. No cultural roots were found in the conflict. It is not a structural conflict, either. In the *a quo* conflict, there is no systematic exploitation of one party against another, no injustice, no oppressive policies, no discriminatory legislation, no form of power imbalance. The *a quo* conflict is a direct conflict, namely conflict as a form of conflict of interest SS versus TYT. In the *a quo* conflict it is very easy to identify both the object and the subject.

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<sup>39</sup> Hadisiswati, Indri, 'Kepastian Hukum dan Perlindungan Hukum Hak Atas Tanah', *Journal Ahkam*, 2, 1 (2014), 118-147, <https://doi.org/10.21274/ahkam.2014.2.1.118-146>

<sup>40</sup> Miall, Hugh, Ramsbotham, Oliver, and Woodhouse, Tom, 'Resolusi damai konflik kontemporer menyelesaikan, mencegah, melola dan mengubah konflik bersumber politik, sosial, agama dan ras,' (2000), Raja Grafindo Persada, [http://opac.acehresearch.org//index.php?p=show\\_detail&id=3317](http://opac.acehresearch.org//index.php?p=show_detail&id=3317)

<sup>41</sup> Arditya Prayogi, 'Social Change in Conflict Theory: A Descriptive Study,' *ARRUS Journal of Social Sciences and Humanities*, 3,1 (2023), 37-42. <https://doi.org/10.35877/soshum1652>

<sup>42</sup> Olaf Kühne, 'Landscape Conflicts – A Theoretical Approach Based on the Three Worlds Theory of Karl Popper and the Conflict Theory of Ralf Dahrendorf, Illustrated by the Example of the Energy System Transformation in Germany,' *Sustainability*, 12, 17 (2020), 6772; <https://doi.org/10.3390/su12176772>

<sup>43</sup> Izza, yogi prana, 'Teori Konflik Dialektika Ralf Dahrendorf,' *AT-TUHFAH: Jurnal Studi Kesilaman*, 9,1 (2020), 41-55. <https://doi.org/10.36840/jurnalstudikeislaman.v9i1.283>

<sup>44</sup> Jones, P., & Bradbury, L., 'Introducing Social Theory,' (3rd ed.). (2017), Wiley. Retrieved from <https://www.perlego.com/book/1536183/introducing-social-theory-pdf> (Original work published 2017)

<sup>45</sup> Ritzel, George, 'Teori Sosiologi Dari Sosiologi Klasik Sampai Perkembangan Terakhir Postmodern,' (2012), *Pustaka Pelajar*. See also: Muhamad Zuldin, 'Ketimpangan Sebagai Penyebab Konflik:Kajian Atas Teori Sosial Kontemporer, *Temali: Jurnal Pembangunan Sosial*, 2, 1 (2019) 157-183

Land conflicts are generally not resolved if only handled by both parties. In the conflict between individuals, the Semarang City Land Office was also involved. This is where the conflict has widened, namely to become a conflict between individuals and groups (conflict among individuals and groups). The individuals namely SS and TYT failed to resolve the conflict independently, because the causes of the conflict actually came from the Measurer's mistake. Therefore, conflict resolution must be brought to court, and position the Semarang Land Office as one of the defendants.

When each party involves a lawyer, conflict between groups within the same organization occurs. Each attorney has a different goal. Lawyers want to get a big fee, while SS and TYT want legal certainty. Court fees and fees for lawyers are borne by SS and TYT. In court proceedings, the victory of one party is the defeat of the other party. That's where the conflict always has a negative impact on the opposing party.

Assess from the position of the parties involved in the conflict, in the case above there is a vertical conflict, namely a conflict that occurs between citizens namely SS dealing with the Land Office. There is also a horizontal conflict, namely the conflict between SS versus TYT, both of whom are in an equal position. Role conflicts are also found, namely conflicts that occur because someone carries out tasks from superiors, but is not implemented properly, namely land measurement errors.

#### **IV. Conclusion**

From the chronology of the case it is known that the lawsuits were filed in court between SS against TYT and the Semarang Land Office, because there were allegations of overlap in land ownership between the two, namely SHM Number 712 on behalf of SS, and SHGB Number 1079 on behalf of TYT.

Overlapping land ownership has been proven to exist, and occurred due to errors in land measurement caused by unprofessional officials, and continuing to issue certificates to each land owner. At the cassation level, it was revealed that there was overlap in land ownership between SHM Number 712 on behalf of SS and SHGB Number 410/Bendan Ngisor; and not SHGB Number 1079 in the name of TYT. On the basis of these facts, SS was defeated at the cassation level. An error in land measurement resulted in an administrative flaw in the certificate issued by the Land Office. Supposedly, the settlement of such cases is sufficient with administrative corrections by the Land Office, and there is no need to sue in court.

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