

# Unlawful Act of Taking Control of Land Belonging to Another Person Without Proof of Ownership (Study of Decision Number 96/Pdt.G/2024/PN Gto)

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## **ABSTRACT**

Unlawful acts have been around for a long time, but it took a very long time for the formulation of illegal acts to apply generally. In Indonesia, PMH has been regulated in 1365 of the Civil Code. Many unlawful acts lawsuits have been submitted to the Court, one of which is a case of illegal acts with the object of a land dispute. Land is an asset or property with a high selling value occasionally. One of the PMH cases with the object of a land dispute is Decision Number 96 / Pdt.G / 2024 / PN Gto. In this case, we look at the position of the case and the legal decision handed down by the panel of judges at the first instance court. This study uses normative legal research with data collection techniques using literature studies. The results obtained are the recognition of land made by the defendants because the defendants believe that the land is the legacy of their grandfather, when in fact, the defendants' grandfather only borrowed the land; the panel of judges has also considered all elements and accepted all the plaintiffs' claims.

**Keywords:** Unlawful Acts, Land, Disputes, Civil Code, Case.

## **INTRODUCTION**

Law in Indonesia is included in the Continental European group. In the Continental European legal system, various unlawful acts have existed since ancient Roman times, meaning they have existed for hundreds of years before Christ. However, it turns out that it took more than 2 thousand years to arrive at a formulation of unlawful acts that apply generally, with the emergence of famous natural law experts such as *Grotius* and *Domat* who lived around the 17th and 18th centuries, who inspired many codifications of the Civil Code. The codification of the Civil Code began with the code of Napoleonic France. The formulation of the unlawful act can be found in various law books of multiple countries, one of which is Indonesia. Article 1365 of the Indonesian Civil Code is expected to cover all forms of unlawful acts. The formulation in Article 1365 of the Civil Code is as follows: "Every unlawful act, which causes loss to another person, requires the person whose fault caused the loss to compensate the loss concerned." The development of the history of law regarding Unlawful Acts in the Netherlands greatly influenced the development of law in Indonesia. Based on the principle of concordance, the legal rules in the Netherlands will also apply in its colonies (Adriaman et al., 2024).

Nowadays, it can be seen that many people do things that are against the law, one of which is violating the rights of others, for example, claiming ownership of other people's land as personal property. Land is one of the sources of natural wealth that directly relates to the continuation of human life. In human life, humans are always in direct contact with the land,

so between humans and land are things that cannot be separated; for example, when humans live, building houses on land to plant plants that can be planted, of course, are on the ground. Land, according to KBBI, is the outermost layer of the earth. In UUPA article 4, paragraph (1) defines land. Land is an important component in life, so humans compete to control land because the need for land continues to increase, but the availability of land is decreasing. In UUPA Article 16, paragraph (1) regulates the provisions of land rights, namely:

1. Right of ownership
2. Cultivation Rights
3. Building rights
4. Right to use
5. Lease rights
6. Right to open land
7. Right to collect forest products
8. Other rights that are not included in the above mention.

Article 1365 of the Civil Code regulates unlawful acts that can ensnare people who control or claim land belonging to other people. These acts occur due to law violations in transferring and owning land ownership certificates. Of course, this is an unlawful act. (Rahendra Lubis, 2021) Land cases often give rise to legal disputes that can involve many parties. Land issues are very complex in Indonesia, especially with ownership rights, control rights, and land use rights that conflict with applicable legal procedures. (Davis et al., 2025). One of the land cases involving many parties is the case that occurred in the Bone Raya sub-district; this case has been going on for a long time and has just been decided by the Gorontalo District Court with Number 96/Pdt.G/2024/PN Gto. In this case involving many parties, plaintiffs and defendants, this case began with borrowing land or land, which ended in claiming that the land belonged to the Defendant's grandfathers. Therefore, the author is interested in examining the position of the case contained in decision Number 96/Pdt.G/2024/PN and the decision of the Gorontalo District Court in adjudicating the legal dispute.

## **METHOD**

This study used normative legal methods, referring to legislation and court decisions. The research materials used were collected through literature studies. This research was carried out systematically, using a descriptive approach to describe and explain the problems.

## **RESULTS AND DISCUSSION**

### **Case Position**

Idris Nusa, Rustam Haleda, Rasuna Nusa, Rusni Nusa, Sakinah, Salma A. Nusa, and Umar Nusa are the plaintiffs in the land case of court decision Number 96/Pdt.G/2024/PN Gto. The position of the case in this land dispute is described as follows (Posita):

Based on the Land Registration Certificate (SKPT) of the Mootayu Village Government Number 100/BR-BB/90a/VII/2023, the plaintiffs own land covering an area of 27,162 square meters.

- The land in question is land inherited from the grandfathers of the Plaintiffs, where the land was obtained from the clearing of forest land by Suaiba Haleda and Makarawo Nusa. Suaiba Haleda was the stepfather of Makarawo Nusa when he married

a woman named Luminara Bakir. After marriage, Suaiba Haleda and Luminara Nusa had a child named Abubakar Haleda. Abubakar Haleda had a descendant named Rustam Haleda in this case as plaintiff 2. Furthermore, Makarawo Nusa has 2 children named Anis Nusa and Since Nusa. Anis Nusa has children: Idris Nusa, who is positioned as Plaintiff 1; Rasuna Nusa as Plaintiff 3; Rusni Nusa as Plaintiff 4; Sakinah as Plaintiff 5; Salma Nusa as Plaintiff 6. Since Nusa has a child named Umar Nusa, Plaintiff 7.

-In addition, the following boundaries have been used for farming since 1950 on the land of the Plaintiffs' grandfather in Mootayu Village, Bone Raya District, Bone Bolango Regency:

1. A cliff or ravine borders the north;
2. Plaintiff 2 Rustam Haleda's land borders the east;
3. The land of Rahmat Hadia, Defendant V, which should belong to Plaintiff II Rustam Haleda, borders on the south;
4. The river borders the west;

- The land or plot of land was continued by the children and grandchildren of the plaintiffs after their grandfather died. In this case, Plaintiff 2 Rustam Haleda has been working on it since 1973. Rahmat Hadia, the grandfather of Defendant 5, borrowed the land in 1980 to make a garden, and Plaintiff 2 planted 19 coconut trees on the disputed land. Rahmat Hadia, the grandfather of the fifth Defendant, had planted 56 coconut trees, along with several langsung trees, one durian tree, and many clove trees, when he worked the land. When the grandfather of Defendant 5 in this case, Rahmat Hadia, intended to sell the clove plants to Jein Biya, Plaintiff 2 Rustam Haleda divided them up because the grandfather of Defendant 5 had planted the plants on Plaintiff 2's land.

- Defendant 5 Rahmat Hadia's grandfather stopped farming in 1989, and Plaintiff 2 Haleda, a former farmer, then occupied the borrowed land. Rustam Haleda, the second Plaintiff, planted coconuts when he sold up to 18 to the late Nini Kaluku in 1989 for \$50,000.00. Plaintiff 2 Rustam Haleda could not redeem the pawned coconuts in 1990, so he immediately sold them to the late Nini Kaluku for \$142,500.00, adding one coconut tree so that the total became 19.

- Defendant 5 stated that the land belonged to his grandfather because the land was planted by his grandfather Rahmat Hadia and given by the Biduli descendants in 2023 based on the confession of Defendant 5 Rahmat Hadia, Harun Biduli (Defendant I), Barensi Biduli (Defendant II), Asmari Biduli (Defendant III), and Erman Biduli (Defendant IV) stated that the land was inherited from the parents or grandfathers of the defendants without being able to prove ownership.

- The Plaintiff's land was supposed to be purchased and paid for by PT—Gorontalo Mineral in early 2023, namely in February. However, after learning the news, the Defendants obstructed the sale and purchase process that PT should have carried out. Gorontalo Mineral. By asking the Village Head in this case to immediately mediate, the plaintiffs have tried to be patient with the defendants' attitude. As a result of the mediation, the village divided the land into two parts, one for the Plaintiff and one for the Defendant.

- The Plaintiffs have prepared the necessary documents to sell the land/plot to PT. Gorontalo Mineral after it is divided, but the Defendants continue to obstruct by giving a warning letter to PT. Gorontalo Mineral. On the basis that the land is still in dispute, PT. Gorontalo Mineral withheld payment to the Plaintiffs after receiving a warning letter from the Defendants. Because they were very worried and disagreed with the Defendants' actions, the Plaintiffs filed

a lawsuit with the Gorontalo District Court. (DECISION Number 96/Pdt.G/2024/PN Gto, 2024).

### **Decision of the Panel of Judges**

Judge Hamka, SH, MH, as the chairman of the panel, and Muammar Maulis Kadafi, SH, MH, and Daimon Donny Siahaya, SH, as member judges, decided to accept and grant the Plaintiff's lawsuit in its entirety in the trial that took place at the Gorontalo District Court on Tuesday, December 2, 2024. In addition, the panel officially stated that the 27,162 square meter plot of land truly belonged to the Plaintiff, with the following provisions:

1. A cliff or ravine borders the north;
2. Plaintiff 2 Rustam Haleda's land borders the east;
3. The land of Rahmat Hadia, Defendant V, which should belong to Plaintiff II Rustam Haleda, borders on the south;
4. The river borders the west;

In addition, the panel of judges stated that the defendants' actions prevented PT. Gorontalo Mineral, paying the plaintiffs, who were the landowners in this case, was unlawful. The panel of judges also decided that all evidence submitted by the plaintiffs was valid and valuable. In addition, the defendants and others were required to accept and obey the decision of the Court that tried this case and were ultimately required to pay court costs of Rp 2,690,000.00.

After reviewing the Plaintiff's lawsuit through his attorney, the judges concluded that the substance of the case already involved an unlawful act based on a land ownership dispute. In the posita section of his lawsuit, the Plaintiff argued that the disputed land belonged to them and was obtained from Suaiba Haleda, their grandfather. In addition, in his response or duplicate, Defendant's Attorney stated that the disputed land belonged to Defendant's grandfather, Halubangga Biduli or Teme Dumbii.

According to the Panel of Judges, the dispute between the Plaintiff and Defendant concerns land rights. The land rights in question give someone the authority to utilize or obtain benefits from the land. In addition, with the enactment of Law of the Republic of Indonesia Number 5 of 1960 concerning Agrarian Principles, the following types of land rights can be distinguished: Ownership rights, business use rights, building use rights, use rights, lease rights, land use rights, forest product collection rights, and other rights that are not included in the above legal rights as well as temporary rights as referred to in Article 53. In particular, ownership rights, as referred to in Article 20 of Law of the Republic of Indonesia Number 5 of 1960 concerning Agrarian Principles, are the strongest, most complete, and most hereditary rights that a person can have over land, while the emergence of ownership rights as referred to in Article 22 of the same Law, especially according to customary law, for example through land clearing, by decisions made by the government, such as using statutory provisions for the conversion of ownership rights or applications submitted to land management organizations.

Witnesses Ishak A. Kamba, Zein D. Biya, and Ahmad Asnanul Khair Kurniawan, SP, were summoned by the Plaintiff's attorney to provide information regarding the Plaintiff's control over the disputed land. Their statements were consistent, essentially stating that Rustam Haleda, Plaintiff 2, had been tasked with managing the disputed land.

In addition, the panel of judges has considered the position of written evidence P-1, P-2, P-3, P-4, P-5, and P-6 attached to the formal civil decision of the Gorontalo District Court regarding the position of the Land Ownership Certificate issued by the Mootayu Village Government, Bone Raya District, Bone Bolango Regency. The certificate materially proves the existence of land controlled by Suaiba Haleda, which was obtained through the direct opening, so from written evidence P-1, it is clear that the plaintiffs have the basis for the right to control the disputed land. Thus, evidence P-1 has fulfilled the elements as written evidence regarding land or a letter legally. Ownership of the Plaintiffs' control is written evidence P-1, P-2, and the Panel of Judges thinks that written evidence P-1, P2, and evidence P-3, according to the Panel of Judges, are valid as the basis for the Plaintiffs' control. The Defendant's attorney, both in the form of witness evidence and written evidence (letters), the Panel of Judges thinks that there is not a single piece of evidence that can provide clarity that the disputed land belongs to Halubangga Biduli or Teme Dumbii, who is the Defendant's grandfather. (DECISION Number 96/Pdt.G/2024/PN Gto, 2024).

The Panel of Judges thought that none of the evidence submitted by the Defendants' Attorneys was stronger so that it could weaken the evidence submitted by the Plaintiffs' Attorneys, and therefore, the Panel of Judges also concluded that the disputed land belonged to Suaiba.

According to the author, the decision of the panel of judges to accept all and all of the lawsuits and what is in the plaintiffs' petitem is correct, considering that the evidence attached to the trial is sufficient to prove that the plaintiffs are the legal owners of the objects and that the actions of the defendants are indeed very detrimental both materially and immaterially. So, it is fitting that this case be resolved through litigation because the actions carried out by the defendants are alarming. Cases of borrowed land to be cultivated, which are finally claimed to be private property, are very common in Indonesia; land disputes like this seem never-ending because they have gone through the mediation process but still do not produce results. So it is right that the Gorontalo District Court take firm action, by Law Number 48 of 2009 concerning Judicial Power, which regulates in Article 10 paragraph (1), that "The court is prohibited from refusing to examine, try, and decide on cases submitted on the pretext that the law does not exist or is unclear, but is obliged to examine and try it," so the judge must try in order to protect the rights of the plaintiffs (Mendy Cevitra & Gunawan Djajaputra, 2023). For that, for the sake of legal certainty and land owners' security and justice, it is appropriate that cases related to land must be accompanied by documents and made in front of a notary and BPN so that the land can have permanent legal force. In this case, the unlawful acts committed by the defendants are included in active unlawful acts because the actions or deeds carried out are deliberate or done consciously (Septiana et al., 2023).

In this land case, which falls into the civil realm, violates the rights of the plaintiffs, and is very detrimental to them, the defendants must compensate for the losses incurred during the ongoing trial process and, of course, submit to the Court's decision so that the plaintiffs can make the payment process with PT. Mineralsl Gorontalo (Nurmiati et al., 2024).

## CONCLUSION

Land disputes involve many parties, such as individuals, business entities, or governments. Land is a valuable asset or property and is also prone to legal disputes. To avoid this, landowners must take care of supporting documents through legal provisions to have legal

power and certainty. Unlawful acts are not only carried out actively or intentionally but can also be passive, which means that even though someone is silent, it still harms others. Of course, this must be anticipated by landowners.

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