

ABSTRACT

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LEGAL PROTECTION OF THE MOI TRIBES ON TRADITIONAL LAND WHICH IS INVESTED IN OIL PALM PLANTATIONS

(xi – 109 pages)

The role of oil palm in the national economy is very large. Palm oil is one of the main export products, apart from oil and gas. Palm oil plantation companies have two conflicting sides, the first side is that palm oil is an important commodity for the Indonesian state and the second side is that palm oil companies face a lot of opposition from residents. The conflict between oil palm plantation companies and communities occurred in Sorong Regency, Southwest Papua. PT Sorong Agro Sawitindo is a palm oil company located in Sorong Regency, Southwest Papua. The existence of this company was rejected by the Moi tribal community because it caused losses for them. The Moi tribal community still depends on their traditional land which is used as an investment by PT Sorong Agro Sawitindo. The regulation of customary land is regulated in Law Number 5 of 1960 concerning Agrarian Principles, apart from that, customary land in Papua is regulated by Law Number 2 of 2021 concerning the Second Amendment to Law 21 of 2001 concerning Special Autonomy for the Province of Papua. In 2021 the Regent of Sorong revoked the company's permit. PT Sorong Agro Sawitindo sued the Regent of Sorong, and the company won the case until the cassation stage. The research results found that PT Sorong Agro Sawitindo ignored the rights of indigenous communities such as CSR (Corporate Social Responsibility), 20% of community rights from Cultivation Rights regulated in Law no. 11 of 2020 concerning Job Creation as amended by Government Regulation instead of Law no. 2 of 2022 which was promulgated through Law no. 6 of 2023 and cause environmental damage. CSR is regulated in Law Number 40 of 2007 concerning Limited Liability Companies. The customary land used for investment in oil palm plantations uses HGU without releasing customary land, which is a tradition of the Moi tribal community because it is not a sale and purchase transaction. This 20% community rights provision is important to ensure that Indigenous communities receive direct benefits from investment activities carried out on their land.

Keywords : Moi Tribal Community, Investment, Palm Oil
References : 1966-2024

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PERLINDUNGAN HUKUM TERHADAP SUKU MOI ATAS TANAH ADAT YANG DIJADIKAN INVESTASI KEBUN KELAPA SAWIT

(xi -109 halaman)

Peran kelapa sawit dalam perekonomian nasional sangat besar. Kelapa sawit menjadi salah satu produk ekspor utama, selain minyak dan gas. Perusahaan perkebunan kelapa sawit memiliki dua sisi yang saling bertentangan, sisi pertama bahwa kelapa sawit adalah salah satu komoditas yang penting bagi negara Indonesia dan sisi kedua yakni perusahaan kelapa sawit banyak mendapat pertentangan oleh warga sekitar. Konflik antara perusahaan perkebunan kelapa sawit dan masyarakat terjadi di Kabupaten Sorong, Papua Barat Daya. PT Sorong Agro Sawitindo merupakan salah satu perusahaan kelapa sawit yang berada di Kabupaten Sorong, Papua Barat Daya. Keberadaan perusahaan ini ditolak oleh masyarakat adat suku Moi karena menimbulkan kerugian bagi mereka. Masyarakat adat suku Moi masih bergantung hidup oleh tanah adat yang dijadikan investasi oleh PT Sorong Agro Sawitindo. Pengaturan tanah adat diatur di dalam Undang-Undang Nomor 5 Tahun 1960 tentang Pokok-Pokok Agraria, selain itu tanah adat di Papua diatur oleh Undang-Undang Nomor 2 Tahun 2021 tentang Perubahan Kedua Atas Undang-Undang 21 Tahun 2001 tentang Otonomi Khusus Bagi Provinsi Papua. Tahun 2021 Bupati Sorong mencabut izin perusahaan tersebut. PT Sorong Agro Sawitindo menggugat Bupati Sorong dan perkara dimenangkan oleh perusahaan hingga tahap kasasi. Hasil penelitian ditemukan bahwa PT Sorong Agro Sawitindo mengabaikan hak-hak masyarakat adat seperti CSR (*Corporate Social Responsibility*), 20% hak masyarakat dari Hak Guna Usaha yang diatur dalam Undang-Undang No. 11 Tahun 2020 tentang Cipta Kerja sebagaimana diubah melalui Peraturan Pemerintah Pengganti Undang-Undang No. 2 Tahun 2022 yang diundangkan melalui Undang-Undang No. 6 Tahun 2023, dan menimbulkan kerusakan lingkungan. CSR diatur di dalam Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. Tanah adat yang dipakai investasi kebun kelapa sawit menggunakan HGU tanpa pelepasan tanah adat yang menjadi tradisi masyarakat adat suku Moi karena bukan transaksi jual beli. Ketentuan 20% hak masyarakat ini penting untuk memastikan bahwa masyarakat adat mendapatkan keuntungan langsung dari kegiatan investasi yang dilakukan di tanah mereka.

Kata Kunci : Masyarakat adat suku Moi, Investasi, Kelapa Sawit
Referensi : 1966 - 2024