

UTILIZATION OF NAGARI CLASSICAL LAND FOR RAMIE AND COFFEE PLANTATION BUSINESSES IN NAGARI TIGO BALAI, MATUR DISTRICT, AGAM REGENCY

Laras Nikita Ralvi¹, Kurnia Warman², Hengki Andora³

¹ Faculty Of Law Andalas University, Indonesia

e-mail: larasnikita1@gmail.com

² Faculty Of Law Andalas University, Indonesia

e-mail: kwarmen@law.unand.ac.id

³ Faculty Of Law Andalas University, Indonesia

e-mail: hengkiandora@gmail.com

* larasnikita1@gmail.com

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Abstract: *This thesis examines About agreements on the use of customary land for plantation businesses, this includes areas or civil events where there is a release or transfer of ownership rights over an object by someone who has the right, in this case the owner of the customary land, but in reality, in the statement of agreement, there are points of agreement that are not fulfilled. namely the investor's promise to give compensation to the children/nephews of the customary land owners, namely 5% of the wet plantation results before processing and the customary land is not managed optimally as promised by the investors at the time of the agreement with Ninik Mamak who represents the Saribulan Village community and is still neglected. by the company, and this raises questions for local customary law communities. until the term of the Cultivation Right expire*

Keywords: *Countermeasures, Absentee, Land Registration, Transision.*

A. Introduction

Law is integral to human existence, its purpose is to maintain order. Consequently, numerous regulations are created to govern various facets of life, such as contractual agreements as detailed in Book III of the Civil Code. However, these regulations can become outdated and no longer reflect societal needs. This necessitates the development of more

appropriate regulations that can effectively function and evolve alongside societal changes and requirements.

Basically, agreement and accord have the same meaning, namely an agreement between two parties to do something. In the context of civil law, this agreement is called "*Overeenkomsten*", which is an agreement between two or more parties regarding their property with the aim of binding themselves to each other. This is in accordance with Article 1313 of the Civil Code which states that an act in which one or more people binds themselves to another or more people. This article confirms that the agreement has binding force for the parties involved in it.

Land is crucial for indigenous peoples, serving as both their ancestral home and a vital source of sustenance. Beyond its economic value, land is deeply intertwined with their cultural identity and traditions. The close connection between indigenous communities and their land shapes their daily lives, which are governed by diverse customs, traditions, and norms specific to each group.¹

Ulayat land is communal land which is believed to be the ancestral inheritance of customary law communities, which has been their main source of livelihood from generation to generation. Customary land as an important element of life functions to ensure collective prosperity. Discussions regarding the use of customary land cannot be separated from customary rights, both of which are two things that are closely related.²

In the customary land law system, customary rights have internal and external powers, where the internal rights apply to its citizens or indigenous customary law communities and the external rights apply to foreigners or legal entities. The primary obligation of customary law administrators who are based on customary rights is to maintain the welfare and interests of their customary law communities from disputes regarding the use and utilization of customary land, and if a dispute occurs, customary law administrators are required to resolve it.³

State land comes from the release or transfer of land rights of customary law communities to the state as stated in Article 2 paragraph 3 of Government Regulation Number 18 of 2021 concerning Management Rights, Property Rights, Building Rights,

¹ Fengky Kotalewa et al., Resolution in Land Acquisition for Road Development in the Public Interest, Sasi Journal, Vol. 26, No. 3, July 2020, p. 416

² Yulia, Textbook on Customary Law, Unimal Press, Lhokseumawe, 2016, p. 64

³ Boedi Harsono, *Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Its Content, and Implementation*, Djambatan, Jakarta, 2005, p. 190.

Business Rights, and Land Registration. The process of granting Land Rights is given by the State at the request of individuals or legal entities first through a process of agreement and deliberation with customary rights holders to obtain a certificate of release or transfer of their land into Customary Rights, without an agreement to release or transfer customary land by customary rights holders.

In order to accelerate National Economic Development, especially in the regions, it is important for investors or business actors to utilize the potential of state land and the Regional Government is obliged to facilitate business actors to obtain permits to utilize state land rights from the transfer of state land in accordance with agreements or agreements including compensation for the transfer to indigenous peoples.

Furthermore, the government has an important role in ensuring legal certainty for all citizens including indigenous peoples, therefore Article 19 paragraph 1 of the UUPA states that in order to ensure legal certainty, the government conducts land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation

The state in granting rights to individuals and/or legal entities can take back control of the land, if the individual and/or legal entity neglects the land that has been granted, abandoned land is one of the problems that must be resolved by the government because the government can change the function or utilize the abandoned land. As is known, abandoned land is land that has been granted rights by the state in the form of Ownership Rights, Cultivation Rights, Building Use Rights, Usage Rights and Management Rights, or the basis for control over land that is not cultivated, not used, or not utilized in accordance with its condition or the nature and purpose of granting rights or the basis for control.⁴

Abandonment of land that is not utilized in accordance with the circumstances or nature and purpose of the granting of rights or the basis for control is often carried out by limited liability companies. In this case, it happened on customary land with business use rights managed by PT Sinar Erabarumas as the holder of Business Use Rights Certificate No. 8 covering an area of 173 Ha located in Jorong Saribulan, Nagari Tigo Balai, Matur District, Agam Regency, West Sumatra Province. Starting from the ruler and customary landowner looking for investors or plantation business actors who want to invest in their

⁴ Risnarto, Community Empowerment in Land Management, Research and Development Center of the National Land Agency, Jakarta, 2004, p. 3

nagari area, after the business actor is found, an agreement is made on the use of customary land on September 1, 1990. The agreement was made between Ninik Mamak/Penghulu Pucuk/Customary Stakeholders who are the owners and rulers of customary land in the Saribulan Village area as the first party and Gustiar Agus as the Regent of the Regional Head of Level II / Agam Regency as the second party with the PMDN investor, PT Sinar Erabarumas, who intends to open and cultivate jute and coffee plantations on the customary land. In the points of agreement between the two parties for the business needs of PT Sinar Erabarumas, the first party allowed the customary land to be managed as a Cultivation Rights Title and then submitted an application for Cultivation Rights Title to the National Land Agency based on the Decree of the Minister of Agrarian Affairs / Head of the National Land Agency No. 6/HGU/BPN/94 dated February 14, 1994 which is located in Jorong Saribulan, Nagari Tigo Balai, Matur District, Agam Regency, West Sumatra Province. But in reality, in the agreement statement letter there are points of agreement that are not fulfilled, namely the investor's promise to provide compensation to the children of the customary owner, which is 5% of the yield of the wet garden before processing and the customary land is not managed optimally as promised by the investor at the time of the agreement with the ninik mamak representing the Saribulan Village community, which until now is still being neglected by the company, so this raises questions for the surrounding indigenous people. Until the end of the Cultivation Rights Title period, indigenous people do not get legal certainty over the customary land.

Customary land use should benefit both the traditional leaders (*ninik mamak*) and investors, as stipulated in West Sumatra Governor Regulation Number 21 of 2012. This regulation emphasizes mutual benefit through agreements like leases, profit sharing, or share ownership, based on freedom of contract. However, in reality, the protection of indigenous peoples' customary land is often neglected, contradicting existing regulations. This highlights the weakness of these regulations and the lack of effective government oversight, which ultimately harms indigenous peoples' rights. Local governments must address this issue seriously to prevent further abuse of these rights

Based on the description above, the author is interested in conducting research and presenting it in the form of a thesis entitled ***"UTILIZATION OF NAGARI CLASSICAL LAND FOR RAMIE AND COFFEE PLANTATION BUSINESSES IN NAGARI TIGO BALAI, MATUR DISTRICT, AGAM REGENCY"***.

B. Literature Review

1. Originality of Research

Research on: "Utilization of Nagari Customary Land for Plantation Business in Nagari Tigo Balai, Matur District, Agam Regency" based on the author's further research both in the Law Faculty Library of Andalas University and other universities, if there is a similar writing, this writing is a complement to the previous writing. There are several previous studies related to the research problem that the author knows are those compiled by:

- a. Thesis from Rizky Aprianto, Master of Notary, Andalas University, entitled "Ulayat Land Utilization Agreement for Plantation Business in West Pasaman Regency" The results of Rizky Aprianto's research concluded that the process of releasing customary land for plantation businesses was first carried out in 1995 through a deliberation stated in a written and stamped agreement between the Customary Rights Authority of Koto Baru Nagari and the Ninik Mamak of Nagari IV Koto Kinali that they would seek investors and hand over customary land of ± 2000 HA for oil palm plantation businesses, the investor being PT. PMJ. However, in 1996 a deliberation was held again which was stated in an agreement that the customary land which was previously ± 2000 HA became $\pm 7,150$ HA without involving the Customary Authority of Koto Baru but the customary land was also released and was in the core of PT. PMJ's HGU.
- b. Thesis from Mutia Fadilla, Master of Notary, Andalas University, entitled: "Utilization of Customary Land by PT Brantas Cakrawala Energy for the Construction of Mini-Hydro Power Plants in Nagari Muara Air, Pesisir Selatan Regency" The results of Mutia Fadilla's research concluded that the process of procuring customary land by PT. Brantas Cakrawala Energy was handed over by the estuary through the process of releasing customary land and the utilization of the customary land must fulfill all utilization permits in the form of survey permits, principles, UKP UPL, LOCATION, SIPPA, DED, and PPA as well as building permits. Furthermore, Mutia Fadilla also concluded that the settlement of disputes over the construction of mini-hydro power plants in Pesisir Selatan Regency must be resolved based on the Naik Batanggo Turun bajanjang, namely resolved through KAN, ninik mamak and companies.

From the description of the thesis research above, this research is different in terms of the perspective of the problem, but if there is similar research without the author's knowledge, it is hoped that it can complement the results of existing research.

2. THEORETICAL FRAMEWORK

a) Agreement/Contract Theory

Agreement is an important and absolute requirement because it is a valid requirement in the agreement. Furthermore, the theory of agreement gives birth to the principle of freedom of contract where the parties can determine the contents or things to be agreed upon. According to Herlien Budiono, there are 3 (three) theories that explain the occurrence of an agreement, namely⁵:

1. Theory of Will

It is an inseparable theory of an agreement or agreement where the will must be conveyed or stated in the agreement

2. Statement Theory

The theory of statement is born when a will is expressed so that it becomes binding on a treaty. This statement theory only pays attention to the statement without paying attention to the will so that it causes potential losses to the parties if there is a mismatch between the will and the statement

3. Theory of Trust

This theory tries to cover the weakness of the statement theory because not all statements give birth to agreements. A statement will only give birth to an agreement if the statement has created trust in the midst of people's habits that the statement is true. Furthermore, by Suharmoko, there are 2 (Two) theories about agreements or agreements, including::

1. Traditional covenant law theory has a character that emphasizes the importance of legal certainty and *predictability*. The main function of the agreement must provide legal certainty for the parties if the legal conditions of the agreement have been met.
2. Modern theories of treaty law have a tendency to ignore the formalities of legal certainty in order to achieve substantial justice. The exception to the application of the doctrine of *Consideration* and the application of *the doctrine of promisory estoppel* and the principle of good faith in agreements are examples of modern legal theories of agreements. *Consideration* and *Promisory Estoppel* are the two basic principles of treaty law in the *Common Law* tradition, without *Consideration* the agreement is not binding and cannot be prosecuted for its implementation.

⁵ Herlin Budiono, General Principles of Contract Law and Its Application in Notarial Practice, Bandung, Citra Aditya, 2010, p. 76.

b) Theory to Legal Certainty

Legal certainty is one of the legal goals in addition to utility and justice, but in its achievement, there is a difference in the purpose of classical law that focuses more on one goal only, while the modern legal school is more about combining the legal objectives with a proportional order of priority according to the case at hand and to be solved (casuich)⁶

Normative legal certainty exists when a regulation is clearly and logically drafted and officially enacted. Clarity means the regulation avoids ambiguity and multiple interpretations, while logical consistency ensures it harmonizes with other existing norms, avoiding conflicts. Legal certainty, therefore, requires the application of clear, stable, consistent, and predictable laws, unaffected by subjective influences. Certainty and justice are not merely ethical considerations but fundamental characteristics of law. A law lacking certainty and justice is inherently flawed.⁷

3. CONCEPTUAL FRAMEWORK

a) Utilization Agreement

Covenant Law is a law that arises due to a party who binds himself to another party or someone who promises another person to do something. In this case, both parties have agreed to enter into an agreement without any coercion or decision that is only one party.

The word utilization comes from the root word benefit which means use, benefit. In the Contemporary Indonesian Dictionary, it is stated that utilization has the meaning of "a process, method or act that is useful."⁸ According to Poerwadarminto, utilization is an activity, process, method or act that makes something useful. The term utilization comes from the root word benefit which means benefit, which gets the suffix pe-an which means the process or act of utilizing.⁹

b) Nagari Customary Land

⁶ Achmad Ali, 2009, Unveiling Legal Theory and Judicial Theory, Kencana Prenada Media Group, Jakarta, p. 213.

⁷ Cst Kansil, Christine, S.T. Kansil, Engelen R. Palandeng, and Godlieb N. Mamahit, 2009, Dictionary of Legal Terms, Jakarta, p. 385.

⁸ Peter Salim and Yenny Salim, Contemporary Indonesian Dictionary, Jakarta: Modern English Press, 2002, p. 928.

⁹ Poerwadarminta W.J.S, General Dictionary of the Indonesian Language, Jakarta: PT. Balai Pustaka, 2002, p. 125.

Customary land is communally managed by the local indigenous community, overseen by their leader (Customary Head), and intended for use by both community members and outsiders. Specifically, Nagari Customary Land, encompassing the land and its natural resources, is controlled by the Ninik Mamak Kerapatan Adat Nagari (KAN) and primarily used for the benefit of the Nagari community. The Nagari government plays a regulatory role in how this land is utilized.

c) Plantation

Plantations in Article 1 (number 1), Law Number 39 of 2014 concerning Plantations as amended by Law Number 11 of 2020 concerning Ciptaker are:

“Plantation is all activities of managing natural resources, human resources, production facilities, tools and machinery, cultivation, harvesting, processing, and marketing related to plantation crops.”

The plantation activities are based on the principles of sovereignty, independence, usefulness, sustainability, integration, togetherness, openness, fair efficiency, local wisdom, and sustainability of the function of the indu.

C. Research Methods

This study employs a sociological (or empirical) legal research approach, examining how law is applied in society and real-world legal practices. The research is descriptive and analytical, aiming to describe relevant laws and regulations in relation to established legal theories and their practical implementation.

The data collection techniques used are Document Studies and Interviews. Document study is a data collection technique by studying literature or literature related to the problem being researched while Interview is a data collection technique by conducting oral questions and answers to respondents consisting of the Agam Regency Government, PT Sinar Erabarumas, West Sumatra Provincial ATR/BPN Regional Office, Agam Regency Land Office, and Ninik Mamak Nagari Tigo Balai and related parties.

This interview is carried out in a semi-structured manner, that is, in addition to the author has prepared interview guidelines (list of questions) and then the answers to the questions can be developed with other questions related to the problem being researched¹⁰.

D. Discussion

¹⁰ *Ibid*, p. 28

1. Agreement between Niniak Mamak Nagari Tigo Balai and PT Sinar Erabarumas in the Utilization of Nagari Tigo Customary Land, Matur District, Agam Regency

Tigo Balai, a nagari in Matur District, Agam Regency, West Sumatra, was established in 1915 by the Dutch colonial government, merging the previously separate nagari of Andaleh, Saribulan, and Cubadak Lilin. Datuak Sati Nan Tuo served as the first Wali Nagari. Tigo Balai adheres to the Koto Piliang adat tradition, while the neighboring Nagari Lawang follows the Caniago tradition. Historically, Lawang and Tigo Balai were a single nagari known as "Nagari Lawang Tigo Balai," sharing a Wali Nagari office that still stands today. The shared market on their border, known variously as *Pasar Kaya*, *Pasar Lawang*, or *Pakan Sinayan* (Monday Market), is now officially called Pasar Lawang Tigo Balai. The name "Tigo Balai" itself originates from the existence of three traditional halls in the area.

An agreement concerning the release of Nagari Tigo Balai customary land, located in Jorong Saribulan, for plantation development originated in 1990. At that time, a representative of the traditional leaders (Niniak Mamak) and customary land owners in Saribulan, A.R. Dt. Rajo Endah, sought plantation investors with the goal of improving the community's well-being.¹¹

Prior to the handover of customary land for plantation business by PT. Sinar Erabarumas, various deliberations were carried out as stated in the agreement or agreement on the handover of customary land, and PT. Sinar Erabarumas as a company with the status of a legal entity and an investor/investor is obliged to comply with all laws and regulations related to the use of customary land for plantation business and is subject to the Salingka Nagari Tigo Balai Customary Regulation.

A land handover statement dated September 1, 1990, formalized an agreement between A.R. Dt Rajo Endah, representing the Niniak Mamak Nan XX of Saribulan, and Dr. Manoecher Tahmasebian, representing PT Sinar Erabarumas. The Regent of Agam Regency, Gustiar Agus, also participated, acting on behalf of the Indonesian government and the West Sumatra Governor, as the second party alongside the investor. The agreement stated that the community leaders had approved the investor's proposal to develop a ramie and coffee plantation in Saribulan as a domestic investment project

¹¹ Information obtained from the statement of Dt. Bungsu Nan Gapuak as the Niniak Mamak of Nan XX Nagari Saribulan on March 13, 2024, at 12:00 PM.

After the agreement on the release of nagari customary land, the customary land becomes a Right of Use issued by the Minister of ATR/BPN with Decree Number 06/HGU/BPN/94 covering an area of 172.25 HA on behalf of PT. Sinar Erabarumas. The investor began to work on the land by importing heavy equipment to the location of the land, but over time the land was not managed optimally as promised by the investor. What was not fulfilled by the investor during the term of the customary land management agreement was the investor's promise to reward the children/nephews of the owner of the customary land of Saribulan Village as stated in the statement between the representative of Ninik Mamak nan XX and PT Sinar Erabarumas of 5% of the wet plantation products,¹². According to the researcher's view, there has been a *default* is the failure to fulfill the obligations as applied in the agreement, the non-fulfillment of the obligations in an agreement, can be caused by two things, namely the debtor's fault either intentionally or due to negligence and due to compelling circumstances (*Overmacht/Force Majure*) and the land is simply abandoned or abandoned.

The discrepancy between PT Sinar Erabarumas's stated intentions and their actual actions within the agreement creates potential harm for the traditional leaders (Ninik Mamak) and community members of Saribulan, Nagari Tigo Balai. Agreements should, in principle, be mutually beneficial. This situation aligns with contract theory, particularly the theory of expression, which posits that a binding agreement arises when intentions are clearly stated. The inconsistency here undermines this principle.

Furthermore, the physical utilization of Nagari customary land in Saribulan Village by PT. The Erabarumas Sinar has caused losses to the indigenous people of Tigo Balai, therefore the holder of the Right to Use Business on behalf of PT. Sinar Erabarumas is obliged to fulfill its obligations to the indigenous people of Tigo Balai to regain their customary rights while still asking in good faith and fulfilling their achievements again in the form of compensation for customary land and plants on it according to previous agreements or agreements.

2. Land Ownership of Business Use Rights by PT Sinar Erabarumas for Plantation Business in Nagari Tigo Customary Land, Matur District Hall, Agam Regency

¹² Information obtained from the statement of Dt. Bungsu Nan Gapuak as the Niniak Mamak of Nan XX Nagari Saribulan on March 13, 2024, at 12:00 PM.

State control over land gives the government the power to manage land use, establish legal relationships between individuals and entities, and define the types of land rights that can be granted. One such right is the Right to Cultivate, often granted to legal entities. The Agam Regency Government is committed to ensuring development serves the public interest. Therefore, a process is required to convert customary land to state land, prioritizing fairness, democracy, and community well-being, while also protecting the legal interests of the party acquiring the land rights, in this case, PT. Sinar Erabarumas.

Legal certainty for land rights is provided through Cultivation Rights certificates, which serve as strong proof of both physical control and legal ownership. PT. Sinar Erabarumas applied for these rights to develop a ramie and coffee plantation, submitting their application to the Minister of ATR/BPN via the West Sumatra BPN Regional Office on October 27, 1992. Cultivation Rights were granted for a 30-year period, covering 173 hectares, as per the Minister of Agrarian Affairs/Head of the National Land Agency Decree No. 6/HGU/BPN/1994, dated February 14, 1994.

The Cultivation Rights decree granted PT Sinar Erabarumas control over 173 hectares. While they began developing the land for ramie and coffee plantations in 1994, operations ceased in 1998 due to the Indonesian monetary crisis, impacting the company's finances. Consequently, the land has been effectively abandoned and left unutilized. This inactivity has allowed the surrounding community to reclaim and cultivate portions of the land, planting crops like oranges, chilies, and corn for their own sustenance. This unproductive and abandoned state of the land has thus created an opportunity for the community to manage and utilize it, improving their livelihoods and local economy through farming..¹³

Until the term of the Right to Cultivate PT Sinar Erabarumas for a period of 30 years has ended on December 31, 2023 and there has been no extension because the company's whereabouts are no longer known after further investigation through the archives of the Directorate General of General Legal Administration of the Ministry of Law and Human Rights, the company's data was no longer found.¹⁴

¹³ Information obtained from the statement of Dt. Bungsu Nan Gapuak as the Niniak Mamak of Nan XX Nagari Saribulan on March 13, 2024, at 12:00 PM.

¹⁴ Information obtained from Syefli Yusuf, S.H., Head of the Land Affairs Division of the Agam Regency Government, on March 14, 2024, at 11:00 AM.

This study reveals a lack of legal certainty regarding land ownership in the case of PT Sinar Erabarumas due to their failure to fulfill contractual and legal obligations. The abandonment of the land granted with Cultivation Rights has several legal consequences: the land is classified as abandoned, the land rights are revoked, the legal relationship is terminated, and the land reverts to state ownership. Because PT Sinar Erabarumas failed to properly manage the land until the Cultivation Rights expired, the local community began cultivating it, meeting their needs. Legally, upon the expiration or abandonment of Cultivation Rights, the land returns to state control, allowing the government to reorganize its use, utilization, and ownership through a Ministerial Decree.

3. Legal Certainty of Land Control in the Case of PT Sinar Erabarumas Not Fulfilling Its Obligations as Regulated in the Agreement and Legislation

As a nation governed by law, Indonesia recognizes ownership rights through various legal regulations binding all citizens, including the government, to ensure legal certainty. This aligns with Roscoe Pound's theory of "law as a tool of social engineering," emphasizing law's role in shaping society. The state is obligated to regulate legal interactions between individuals and entities to guarantee legal certainty for all parties, preventing harm and ensuring fairness. Justice is defined as "giving everyone their due and putting everything in its proper place," reflecting the principle of equality before the law. Legal certainty is understood with the idea that the rule of law functions as a representative of justice, the benefits of the idea that pleasure is the basis of justice, and justice itself sees the rule of law as a living entity rather than anything that can provide justice. benefit the parties to the dispute. Problems need to be examined in society and other laws that must be considered by judges when making decisions to achieve justice itself.¹⁵

Related to PT Sinar Erabarumas not carrying out its obligations in this case the company is in default which causes losses to the customary law community and land control is not managed properly until the land expires the validity period of the right to cultivate so that it is included in the land indicated as abandoned.

The policy regarding the use of abandoned and vacant land implements the National Agrarian Reform Program. Abandoned land is a key component of the land slated

¹⁵ Sutrisno, Application of the Principles of Justice, Legal Certainty, and Benefits in Corruption Crime Court Decisions, *Gorontalo Law Journal*, No. 3, 1, 2020.

for redistribution under this policy. The process for regulating abandoned land, outlined in Articles 4-13 of Government Regulation No. 11 of 2010 and Article 3 of the Head of National Land Agency Regulation No. 4 of 2010, involves four main stages before a formal determination of abandonment is issued.

Based on the Letter of the Head of the Regional Office No. 37.1 / KEP-500.16 / I / 2011, dated January 11, 2011, PT. Erabarumas is included in the object of regulating Abandoned Land. In accordance with the contents of the explanation of Government Regulation Number 20 of 2021 concerning the Order of Abandoned Areas and Land, in order to maintain land quality and improve community welfare, rights holders, management rights holders, and basic land control holders are expected to be able to maintain and preserve their land and not neglect it¹⁶

To ensure legal certainty regarding abandoned land use rights, Government Regulation Number 11 of 2010 stipulates that designating land as abandoned terminates the legal relationship between the rights holder and the land, returning control of the land to the State. Specifically, Article 9, paragraphs (2) and (3) of the regulation state that when land slated for abandoned status involves land rights as defined in Article 6, paragraph (1)(a), the abandoned land designation also revokes those rights, severs the legal relationship, and confirms the land as being directly controlled by the State.

State land that is formerly abandoned land as determined by the head as referred to in Article 19, is directly controlled by the state in this case the National Land Agency of the Republic of Indonesia, is the State General Reserve Land (TCUN) which is utilized according to Article 21 of the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 4 of 2010 for the benefit of the community and the State.

Based on Article 22 of the Regional Regulation of West Sumatra Province Number 7 of 2023 concerning Customary Land, it is stated that the Right to Cultivate which originates from state land that previously originated from Customary Land whose rights have expired, the Regional Government facilitates the restoration of customary land assisted by a team, from this, the customary law community around the land location has high hopes that their customary land will be returned to its original owner in order to connect life and revive the economy of the surrounding community by farming on their

¹⁶ Information obtained from Benny Syofyan, S.H., M.Hum., M.Kn., Coordinator of Land Control Substances at the Regional Office of ATR/BPN West Sumatra Province on May 17, 2024, at 16:21.

land.¹⁷ The regional government's policy to determine the restoration of all customary land after the agreed period with investors has expired, seems to be a choice that stems from a phobia of matrilineal society regarding the release of customary land.¹⁸

Land control by the state in accordance with the purpose of its use must pay attention to the interests of the wider community and not cause land disputes. Article 6 of the UUPA states that all land rights have a social function. Land abandonment in rural and urban areas, in addition to being an unwise, uneconomical (loss of opportunities to realize the economic potential of the land), and unfair, is also a violation of the obligations that must be carried out by rights holders or parties who have obtained the basis for land control. The regulation of abandoned land aims to achieve a more just society, ensure the continuity of Indonesia's social and national systems, and foster social harmony.

This study concludes that legal certainty requires clear, consistent, and predictable laws, applied objectively without subjective influence. Certainty and justice are not merely ideals, but essential characteristics of the law. To ensure legal certainty regarding expired Cultivation Rights, and to prevent legal issues while promoting justice, the law must be firmly enforced against rights holders who fail to renew. This allows the state to redistribute the land to the surrounding community or farmers, ultimately contributing to the national goal of maximizing public prosperity.

Therefore, the central government through the regional government that has the mandate of regional autonomy including managing land issues must take strategic steps and immediately enforce the law against expired cultivation rights to create legal certainty in Indonesia because the state according to the mandate of the 1945 Constitution of the Republic of Indonesia and the Basic Agrarian Law has the right to control and distribute land to the people. The state has the authority to decide that legal entities can obtain land rights from the state, and legal relations can occur between legal entities and land.¹⁹

E. Conclusion

¹⁷ Information obtained from Dt. Palimo, Chairperson of KAN Nagari Tigo Balai, Matur Subdistrict, Agam Regency, on March 13, 2024, at 3:00 PM.

¹⁸ Zefrizal Nurdin, *The Dilemma of Utilizing Ulayat Land for Investment in West Sumatra: Norms and Implementation*, Media Law Journal, Vol. 22, No. 1, 2015.

¹⁹ Wirawan, V. Rekonstruksi Politik Hukum Penyelesaian Sengketa Tanah dan Konflik Tanah di Indonesia. *Jurnal Hukum Progresif* 9, No. 1, 1. 2021

1. In 1990, the Ninik Mamak Nandikato XX of Nagari Tigo Balai, along with the Agam Regency Government, agreed to release approximately 173 hectares of customary land to PT Sinar Erabarumas for a ramie and coffee plantation. While the investor initially began work on the land, they ultimately failed to manage it as promised. Specifically, the investor defaulted on their commitment to provide 5% of the wet plantation's profits as compensation to the descendants of the customary land owners in Saribulan Village. This breach of agreement resulted in losses for the Ninik Mamak Nan XX and the surrounding customary law community.
2. PT Sinar Erabarumas's control of the Cultivation Rights land in Nagari Tigo Balai began in 1994. Legally, the holder of Cultivation Rights is obligated to cultivate and manage the land. However, due to the 1998 economic crisis, the company went bankrupt, and the land was left unmanaged and abandoned until the Cultivation Rights expired.
3. Because PT Sinar Erabarumas has failed to fulfill its obligations and its current status is unknown, the West Sumatra Provincial Land Agency can declare the Cultivation Rights land abandoned. According to Article 21 of the Head of National Land Agency Regulation Number 4 of 2010, land designated as abandoned can become a land bank asset or State General Reserve Land, to be used for the benefit of the community and the state through Agrarian Reform, state strategic programs, or other state reserves.

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