



## Settlement of Disputes Between Buyers of Moi Ulayat Land in Sorong District

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<http://dx.doi.org/10.18415/ijmmu.v8i8.2972>

### **Abstract**

Based on this perspective, the type of legal research is carried out through Empirical Legal Research. In fact, a lot is done in the life of the Moi Tribe. It's carried out by buying and selling which is accompanied by a letter of land release with a compensation fee given as proof that the land has been released or transferred to the party in need. In other words, the four things above are done by buying and selling land, so it must be done in cash where the transfer of land rights by the land owner (the seller) is carried out together with the payment by another party (the buyer).

**Keywords:** *Moi Ulayat; Customary Law*

### **Introduction**

The position of customary law in Indonesia is never separated from analytical questions related to the application of state control rights when faced with the customary rights of indigenous peoples. ("Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia," 2018) To answer this question, an analysis of John Locke's social contract theory is used as the basis for the formation of a state. ("Hak Menguasai Negara Dan Perlindungan Huk. Terhadap Hak Ulayat Masy. Huk. Adat Kaji. Teor. Dan Implementasinya," 2017)

In part of the earth's surface is limited by a plot of land in question is land rights. In addition, land rights don't include the body of the earth, water and what is in it. (Kristiani, 2020) Land arrangements have been regulated and confirmed in Article 4 of the Basic Agrarian Law. In its conception and implementation, it must be strictly limited so that the future and when it's time to think about looking for alternatives to the right to control it. In addition, it's necessary to regulate the utilization and use of land in order to realize land rights as a social function. These social functions are in the interests of individuals and indigenous peoples, but that doesn't mean that the public interest urges them. (Jevon Laike, 2019)

Many related and authorized parties to handle the issue of customary land disputes resolve in various ways. There are those who use non-litigation dispute resolution (dispute resolution outside the court), and many use litigation dispute resolution (dispute resolution through the courts). This is also concretely the case with disputes between buyers of ulayat land of the Moi Tribe in Sorong Regency, namely a plot of ulayat land belonging to the Osok Samanas clan was sold by the Osok Kauso clan to another party (the Buyer). On the other hand, the same ulayat land object was sold by the Osok Samanas clan to other parties as well. The result is a conflict or dispute between ulayat land buyers.

The indigenous people of the Moi Tribe are the indigenous people of the Sorong City/Regency, West Papua Province. The Moi clan is divided into many clans, including the Osok clan, the Malaseme clan, the Kalawen clan, the Kalasuat clan, the Malibela clan, the Bisi clan, the Kalaibin clan, the Kwaktolo clan, the Ulim clan, the Malakabu clan, and other clans. The Osok clan according to the meaning of the place and territory of its ulayat land is divided into 3 (three), namely: (1). The Osok Samanas clan, which from the Moi language means the Osok Swamp clan; (2). The Osok Tripla clan, which from the Moi language means the Mountain Osok clan; and (3). The Osok Kauso clan which from the Moi language means the Osok River/River clan.

Disputes between Buyers of ulayat land in Sorong Regency - West Papua Province stemmed from Silas Osok Kauso selling Michael Osok Samanas' ulayat land to other parties, in this case to immigrants/non-Papuan who came to migrate to Sorong Regency and then needed land to be managed as agricultural land or land settlement. And for the same land object, Michael Osok Samanas sells the same land object to other/non-Papuan parties. (Isnaini Wijaya et al., 2018)

The choice of dispute resolution by *litigation* or through the courts is the last option after going through *non-litigation* or persuasively through deliberation without producing results. Litigation dispute resolution through this Court is carried out to provide legal certainty, legal force legally and based on law, and provide justice. By looking at the above, the researchers provide the following formulations: (1) What is the origin of the legal events in the Moi Marga Osok Kauso Tribe selling a piece of ulayat land belonging to the Osok Samanas clan; (2) What are the legal implications of the role of the Osok Samanas clan to buyers of their customary land in dispute resolution.

### **Research Methods**

Based on this perspective, the type of legal research is carried out through *Empirical Legal Research*. (Michael, 2019)

### **Results and Discussions**

#### **Legal Events in the MOI Marga Osok Kauso Tribe selling a Piece of Ulayat Land Belonging to the Osok Samanas Clan**

Indigenous peoples of the Moi tribe who have customary rights in Sorong formed the Mala Moi Indigenous Society as a Cultural Institution which was given the authority to take care of all problems related to Moi customs, including resolving customary land disputes arising from disputes between relatives or clans in the Moi tribe in the customary law area. For the indigenous people of the Moi Tribe, land is a gift from God Almighty and is a traditional wealth inherited by ancestors. (Golap & Umpain, 2019) Land as one of the necessities in the implementation of human life has a very vital role. People with an agrarian lifestyle depend entirely on land, funds are the main object that must be owned in the implementation of agrarian life in the form of procurement of agricultural land and plantations. Land is also the basis for measuring welfare and prosperity for indigenous peoples who are domiciled in customary law areas. Therefore, in order to maintain the ancestral heritage of the Moi indigenous people, it's important to have the authority of the Mala Moi Sorong Indigenous Peoples Institution to resolve various customary land disputes. (Suharyo, 2019)

The Inheritance of Customary Land in the Moi Marga Osok Kauso Tribe in Sorong is carried out using the provisions stipulated in the customary law of the Moi tribe, where ownership of the land is owned by an only child born based on ritualization in a legal customary and religious marriage, thus legal ownership Based on customary law, Orpa Osok is the only child of a legal marriage between the late Agustinus Osok and Fransina Mobilala. Meanwhile, Frits Osok was born to a mother who, according to customary law, was illegitimate, so he wasn't entitled to inherit the customary land left by the late

Agustinus Osok. In the distribution of the customary inheritance of the Osok Kauso clan, the traditional elders are of the view that Frits Osok isn't entitled to customary inheritance rights even though he is the only child of the late Agustinus Osok and the late Engelina Kalawaisa, because he wasn't born through a legal relationship based on the ritualization of traditional and religious marriages, so they don't live together. (Wiranata, 2016)

In fact, a lot is done in the life of the Moi Tribe. It's carried out by buying and selling which is accompanied by a letter of land release with a compensation fee given as proof that the land has been released or transferred to the party in need. (Abdul Hamid, 2016) In other words, the four things above are done by buying and selling land, so it must be done in cash where the transfer of land rights by the land owner (the seller) is carried out together with the payment by another party (the buyer). In real terms, it means that the spoken will or intention must be followed by actions that clearly indicate the purpose of the sale and purchase, for example receiving money by the seller, and making an agreement before the village head. Finally, it's clear that the legal action must be carried out in front of the village head as a sign that the act doesn't violate the applicable legal provisions. (Wijaya, 2020)

### **Legal Implications of the Role of the Osok Samanas Clan to Buyers of Their Customary Land in Dispute Resolution**

Negotiation is the first option that will be chosen by the Moi Marga Osok Kauso Tribe and the Osok Samanas Indigenous People regarding the settlement of ulayat land disputes faced by both parties. Negotiation was chosen because it was considered that it would save time and cost by both parties. (Prasojo, 2015) On the other hand, the negotiation is also a manifestation of the closeness between the Moi Marga Osok Kauso tribe who are in the field and also the Indigenous people who own customary land that will be used for road construction. This is based on the words of one of the Moi Marga Osok Kauso and Osok Samanas tribes in the field who said that during the construction of this road the Moi Marga Osok Kauso tribe must be able to take personal approaches with the local community, so that in the future if anything happens in the implementation. In these development projects, Indigenous peoples can help to solve the problems they face. Therefore, at the beginning of the development implementation, there was a friendly event between the Indigenous people and the Moi Marga Osok Kauso Tribe which aimed to bring them closer and make them a family, so that if in the future a problem occurs in the area, it can be discussed or resolved amicably together. ("LEGALITAS KEPEMILIKAN MASYARAKAT ADAT ATAS TANAH ULAYAT MENURUT HUKUM AGRARIA," 2020)

### **Conclusion**

In fact, a lot is done in the life of the Moi Tribe. It's carried out by buying and selling which is accompanied by a letter of land release with a compensation fee given as proof that the land has been released or transferred to the party in need. In other words, the four things above are done by buying and selling land, so it must be done in cash where the transfer of land rights by the land owner (the seller) is carried out together with the payment by another party (the buyer). In real terms, it means that the spoken will or intention must be followed by actions that clearly indicate the purpose of the sale and purchase, for example receiving money by the seller, and making an agreement before the village head. Finally, it's clear which means that the legal action must be carried out in front of the village head as a sign that the act doesn't violate the applicable legal provisions.

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