



## A Resolution of a Dispute of Customary Land Registration in Sungai Tarab Village, Tanah Datar District

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### **Abstract**

Customary land is a binding element for a society to live in an area, and it is a determining factor of whether or not a person is a native of that area. In Minangkabau, customary land is not allowed to be traded; it should only be managed and utilized by the descendant who has the right. The problems of this study are (1) What are the factors that led to the dispute over the registration of customary land in *Sungai Tarab Village*? (2) How is the process of resolving the dispute over the registration of customary land in the *Sungai Tarab* village through VCI? (3) How is the process of resolving the dispute over the registration of customary land for family in *Tanah Datar* National Defense Agency (BPN)? This is an analytical descriptive study, which analyze to provide an overview of the subject and object of the research. The types of data used are primary data and secondary data. The results of this study indicate, first, the factor of the dispute in *Sungai Tarab* village is the lack of legal law over the ownership of land obtained from the trade, so that there are other parties who seize their rights. Second, the process of resolving the dispute of family customary land through VCI is by following the steps from looking for the evidence, witnesses, and observing *Descendant Warga*, so that the decision arises based on the results of discussions and agreements of societies who has the right on the disputed land. Three, the dispute resolution is carried out by the division of conflict, dispute and case at the Land Office, which begins with the mediation of the parties of the dispute.

**Keywords:** Dispute Resolution; Land Registration; Customary Land

### **Introduction**

The existence of land cannot be separated from all human activities both in economic, social, political and cultural movements, also by a person or a community.<sup>1</sup> This is because the land has a role and function that is very important for every human being in carrying out activities and continuing their daily lives. It cannot be denied that since humans were born, live, until die, they are closely related to the land. Land issues are a sensitive issue for Indonesian, especially for Minangkabau people.<sup>2</sup> That is

<sup>1</sup> Parsons, Talcot, and Neil Smelser. *Economy and society: A study in the integration of economic and social theory*. Routledge, 2005.

<sup>2</sup> von Benda-Beckmann, Franz. *Struggles over communal property rights and law in Minangkabau, West Sumatra*. No. 64. Max Planck Institute for Social Anthropology, 2004.

because land in Minangkabau is one of the elements in a matrilineal organization. Besides, for Minangkabau people, land is considered as one of the criteria that determines a person's dignity in a village. Someone who owns the original land is considered a native in the village who is more eligible over the majesty in the village.<sup>3</sup>

The customary rights of customary law communities in Basic Agrarian Law are fully acknowledged and, in their existence, it still shows their identities as a characteristic of customary law in agrarian that has customary and togetherness viewpoint. This is done for the purpose of the welfare of the local indigenous community with all the consequences. This means that the existence of customary rights in customary law communities is fully guaranteed in laws and regulations. Thus, it cannot be denied that the revolutionary changes in customary ownership in customary law communities can change into personal or private ownership. In general, for West Sumatra area (Minangkabau), a land that is frequently being disputed is customary land or high inheritance land from citizens or tribes, and only a few of it is a private land or low inheritance land. Meanwhile, the State or government's land has been being registered or certified, and therefore, it has strong legal force and evidence.

Although this customary land is owned by all members of the community, it can be registered in the name of community by the heir's head. It is done in order to achieve the goal of community legal awareness on land registration. Another cause of customary land dispute is because the head of inheritance in the citizens does not carry out his duties, such as, in the case of guiding the nieces, teaching the ins and outs of Minangkabau customs, notifying customary rights in customary law communities, and so on.<sup>4</sup> The problem can also be caused by *malakok* (staying) person. As an immigrant, even though they have followed the customary rules, they are often placed as second-class citizens. Likewise, on the other hand, if the citizens whose house is being a place to stay by the immigrants are apparently not developing, while those who are immigrants are better in socio-economic conditions, then they can finally be considered stronger than the native whose house they are staying on.

Just like what happened to a citizen in *Tarab River Bendang, Tanah Datar District*, West Sumatra. The land has been purchased by previous ancestors and has been occupied and even has been used from generation to generation.<sup>5</sup> In addition, the land is a low inheritance land. A low inheritance land is a property obtained or a lung based on gifts or grants or those which are owned by a family based on their income, purchases, *taruko* and so on.<sup>6</sup> However, the land that has become a low inheritance is seized by another party in a way that is not appropriate with the customs in Minangkabau, in that sense, the land was taken by force and by deception. Thus, until now this land is still in dispute between the two parties.

## **Research Methods**

### **1. Approach to the Problem**

The problem approach used in this research is empirical legal search, which is related to the subject matter of the problem that will be discussed regarding to practices that occur in field with legal norms (Laws and Regulations) that have already existed.<sup>7</sup>

<sup>3</sup> Amir Syarifuddin, *The Implementation of Islamic Inheritance Law in Minangkabau Customary Law*, Jakarta, Gunung Agung, 1984, p.22

<sup>4</sup> von Benda-Beckmann, Franz, and Keebet von Benda-Beckmann. "Multiple embeddedness and systemic implications: struggles over natural resources in Minangkabau since the Reformasi." *Asian Journal of Social Science* 38.2 (2010): 172-186.

<sup>5</sup> Fitzpatrick, Daniel. "Disputes and pluralism in modern Indonesian land law." *Yale J. Int'l L.* 22 (1997): 171.

<sup>6</sup> Ibid, pp. 94

<sup>7</sup> Heise, Michael. "The past, present, and future of empirical legal scholarship: Judicial decision making and the new empiricism." *U. Ill. L. Rev.* (2002): 819.

## 2. *Nature of Research*

The research that is conducted in this scientific paper is descriptive,<sup>8</sup> in which the researcher attempts to describe or give an overview of a situation systematically, factually and accurately to how the process of Dispute Resolution of Customary Land Registration in *Sungai Tarab* Village, *Tanah Datar* District is.

## 3. *Types and Data Sources*

### a. *Types of the Data*

- 1) Primary data is data obtained directly from the First Source so that the author's primary data is data obtained directly from the source/ through field research by conducting interviews in the environment,<sup>9</sup> that are: Padang National Defense Agency (BPN), Sub-district Office, Village Customary Institution (VCI) and Citizens whose rights are released.
- 2) Secondary Data is data obtained from the literatures consisting of various books or documents references through reviewing literatures that can support this writing and the results of research in the form of reports that include:
  - a) Primary legal material,
  - b) Secondary legal material
  - c) Tertiary legal material

### b. *Data source*

- 1) Study of Field.
- 2) Study of Literature

## 4. *Data Collection Instruments*

### a) *Interview*

Interview is a process of data collection by conducting verbal question and answer with parties related to the problem of this study.<sup>10</sup> Therefore, in the implementation of this interview the researcher uses semi-structured interviews, where each main question will be prepared by the researcher and later can develop with new questions after the respondent gives the answer. The interview was carried out to the Head of *Tanah Datar* National Defense Agency (BPN), Sub-District Head, Headman, Head of Village Customary Institution (VCI) and citizens who are being the Witnesses of Citizens Land Dispute.

### b) *Study of Document*

Study of document is a process of obtaining data by studying the laws and regulations, and any documents related to the problems raised in this study.

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<sup>8</sup> Taylor, Steven J., Robert Bogdan, and Marjorie DeVault. *Introduction to qualitative research methods: A guidebook and resource*. John Wiley & Sons, 2015.

<sup>9</sup> Amiruddin and Zainal Asikin, *Introduction to Legal Research Methods*, Rajawali Pers, Jakarta, 2014, p. 30.

<sup>10</sup> McConville, Mike, ed. *Research methods for law*. Edinburgh University Press, 2017.

## 5. *Data Processing and Data Analysis*

### a) *Data processing*

Data processing is a process that is carried out after obtaining and collecting data, then continued by determining the materials that will be used as part of the writing that will be conducted through the process of editing, that is, editing all of the collected data and then filtering it into a data set that can actually become accurate in drawing conclusions.

### b) *Data analysis*

Data analysis is conducted when the data that have been presented is analyzed qualitatively, that is, judging through laws and regulations, experts' theories, and logic. Therefore, later it will produce a deep description. This can be done by describing facts and theories so that the concrete conclusions can be taken to answer the research problems.

## **Results of the Study and Discussion**

### 1. The Process of Overcoming the Disputes on Customary Land Registration in *Sungai Tarab* Village through Village Customary Institution (VCI)

A conflict changes or develops into a dispute if the party who feels aggrieved has expressed his dissatisfaction or personality, either directly to the party who is considered as the cause of the loss or to another party. Article 6 of Law Number 39 of 1999 regulates the choice in overcoming disputes through the discussion of the disputing parties. In Article 12 paragraph 1 of Regional Regulation Number 16 of 2008 concerning Customary Land and the utilization, it explains:

"The customary land dispute in village is resolved by VCI based on the provisions as long as the custom prevails, "*bajanjang naiak batanggo turun*" and it is attempted to be solved by peace through discussion and agreement in the form of a peace decision."

In resolving land disputes in a village, it is still attempted to submit a claim indirectly to VCI or other institutions, but should be carried out familiarly. According to the Chairman of *Sungai Tarab* VCI, Mr. HS. Dt. Angry Bangso, by the existence of the case that becomes the object of this study, where the dispute of customary land is handed over to the tribe's head to find solutions of the problems or by the discussion.<sup>11</sup>

The tribe's head is a brother of a mother, both in the matters of siblings and in the matters of brothers and nephews, and the tribe's head is the one who must intervene. The aim is to make a peaceful "*seperinduanya*" environment, both in terms of inheritance affairs, marital affairs, affairs of holding a mortgage, affairs of nephew's guidance, and so on.

Then, a solution will be found by the head of the tribe, if the head does not find a solution of the problem, the conflict therefore would be forwarded to *Wali Jorong* (Mayor), and if the guardian also could not resolve it then it would also be forwarded to Village Mayor, as the Mayor of the Village has received a report from the Mayor of Jorong. Next, if the Village Mayor could not find a solution too, this claim would be forwarded to the Village Customary Institution (VCI).<sup>12</sup>

<sup>11</sup> Interview with the Chairman of VCI Sungai Tarab Village, Mr. HS. Dt. Angry Bangso, in August 14<sup>th</sup> 2018, in Sungai Tarab

<sup>12</sup> Interview with the Chairman of VCI Sungai Tarab Mr. HS.Dt. Angry Bangso in August 8<sup>th</sup> 2018, in Sungai Tarab

Article 23, Governor Regulation Number 21 of 2012 concerning the Guidelines and Procedures for Utilizing Customary Land for Investment also describes about the dispute resolution, that are:

(1) Disputes that occur in the utilization of customary land for investment are settled by discussion and agreement to reach an agreement directly through negotiations.

(2) If the agreement is not reached, the dispute resolution as referred to paragraph can be carried out with the assistance of the village government, VCI, LKAAM, Sub-district head, regional government, and other independent third parties as mediators to mediate the disputes.

This plot of resolution is in accordance with the proverb of Minang "*Bajanjang Naik Batanggo Turun*" which means that customary rule is a government whose rules come from the lowest part by discussing, and the implementation goes down from up.<sup>13</sup> Each problem is solved first at the lowest level, that is the citizens who are led by tribe's head (head of the heir). If it cannot be solved, the resolution can be up at the level of the guardian, and if it still could not be solved that would be up at the tribal level. When arriving at the tribal level before going up to VCI, it must go through the tribal federation until it could up at the next level that is VCI.<sup>14</sup>

After finished passing this procedure (tribal federation way) if the disputing parties still feel dissatisfied with the decision that has been determined, it could be proposed to the VCI which is the highest customary institution. If the decision made by VCI still does not satisfy the disputing parties, the aggrieved party could bring the case to the District Court.

As what a court supposed to be, the procedure for overcoming the disputes that is submitted to the VCI in *Sungai Tarab* in accepting and making decisions has been based on documents evidence and the confession of witnesses or the witness of whether he/ she is eligible to disputed object or not.

In recognizing the evidence proposed, *Sungai Tarab* VCI always sees the authenticity of the signature of the head of the inheritance, the similarity of the signatures. So are the signatures from authorized officials such as sub-district heads and so on.

In overcoming the dispute over citizens' customary land in *Sungai Tarab* VCI, it can be concluded that the procedure is as follows:<sup>15</sup>

- a. The head of inheritance proposes a claim to *Sungai Tarab* VCI attached by the full name and signature of each member of the citizens.
- b. Applications that have been signed by the Head of inheritance must be known by the respective tribal leaders.
- c. The existing documents must be attached and signed by each party
- d. Put it in VCI secretariat.
- e. After being known by the chairman of VCI, the evidence was selected by the Chair of VCI.
- f. If it is accepted, it should be discussed with the leaders.
- g. The results of the discussion indicated that it is accepted,
- h. The parties could be invited as the disputing parties.

In the trial of the Village Customary Institution (VCI) council requires evidence as a means of consideration. The evidence that can be used in the trial are:

<sup>13</sup> Minangkabau Website; <https://minangkabauku.wordpress.com/2006/11/10/1000-pepatah-petitih-mamang-bidal-pantun-gurindam-bidang-hukum/> (last seen in September 12<sup>th</sup> 2018, at 07.49)

<sup>14</sup> Results of *Village Government Implementation (LPPN) reports*, Sungai Tarab Village, 2017

<sup>15</sup> *Ibid*

- a. Recognition or statement of the parties
- b. *Descendant*
- c. Confession or statement of members of the Village Customary Institution, the leaders, four elements, namely, custom, religion, *cadiak pandai*, *imam khatib*.
- d. Letter or another writing
- e. *Warih nan bajawek* (inherited inheritance)
- f. Witness confession and explanation
- g. Expert information
- h. Customary vow

Customary vows are only used if there is no attempt at other evidence, what is meant by traditional vow is a vow requested by the assembly to the parties according to customary rules. Case of dispute between Amiruddin and Zainal Abidin the former of *Dt. Rajo Penghulu*, indeed has less evidence of the heirs of Sainah which in this case was represented by Amiruddin, that is the written evidence in the form of land trade letters that occurred in 1919 were destroyed due to the fire in 1950. Since that year, they do not have evidence of ownership of the land and buildings. Besides, no one sued the object of the land. The situation changed after the arrival of Zainal Abidin, the former *Dt. Penghulu Rajo* came from Payakumbuh who moved to *Sungai Tarab Village*, which the reason was not known and without any discussion he forcibly seized the land even the house/ *lapau*, which the heirs of Sainah occupied.

Continuing the complaint from the plaintiff to the Village Customary Institution of *Sungai Tarab Village*, the plaintiff proposed the statements from witnesses who were aware of the origin of the land that had been owned by the late Sainah's heirs. The statement letter is in regards to the 4 (four) witnesses stating that the Land and houses/ *lapau* that were in a dispute were indeed owned by the late Sainah who had been purchased from *Dt. Machudun Sati* in 1919. It is mentioned in the witness' statement letter about the surrounding boundaries of the land and it is also mentioned that those who have the right to own the land and the house/ *lapau* is the heir of the late Sainah as mentioned above and the fact is the heirs still alive.

The trial at the Village Customary Institution regarding the dispute was held twice (2) sessions conducted at the Head of Village's Office, which is now known as mayor office of *Sungai Tarab* village. The following are the written and oral statements of the witnesses that had been read and listened by VCI *Sungai Tarab* village in front of the density members in the meeting:<sup>16</sup>

- a. H.D.Dt. Rajo Penghulu, 60 years old, Peliang Lawas tribe, the occupation is a fertilizer trade, lives in Tiga Batur Sungai Tarab village.
- b. Mazwar, 35 years old, from Bendang tribe, works as a farmer, lives in Sunagi Tarab village.
- c. Darwis Atab, 71 years old, from Peliang Sani tribe, works as a seller, lives in Sunagi Tarab village.
- d. Masri Nurdin, BA, 60 years old, from Bodi tribe, works as an entrepreneur, lives in Sungai Tarab village.

By observing and formulating all information from both the plaintiff and the defendant, as well as from the statements of the witnesses, VCI of *Sungai Tarab Village* decides:<sup>17</sup>

- a. That the stand/ shop building is the plaintiff's ownership, in this case is 'Amiruddin et al.'
- b. That the land where the stand/ shop is built is owned by *Dt. Machudun Sati* (late) Bendang tribe, *Sungai Tarab* village.

<sup>16</sup> Letter of decision of the Village Customary Institution (VCI) in *Sungai Tarab* village, June 4<sup>th</sup>, 2000

<sup>17</sup> *Ibid*

Based on the results of the decision, it is clear that the land, the house/ building had a clear ownership status. However unfortunately, the results of the decision from VCI were ignored at all, even they were still occupying the land. Due to the fact that there was no action of leaving the land, the Plaintiff, Amirudin, submitted a report to Head Police of Sungai Tarab. The report contained a request for assistance to resolve the problem of seizing of rights/ forcible demolition by Zainal Abidan the former Dt. Rajo Penghulu along with his nephews and family. They proposed the request that the building and the land on which it is built can be returned as it is, so that it is in accordance with VCI Decree.<sup>18</sup>

Besides, Amiruddin also tried to register the land in dispute at the office of Tanah Datar district. However, at that time by telling the land incident and showing the decision of the VCI Sungai Tarab Village, the National Defense Agency (BPN) confirmed to solve it first since according to BPN, if it was still certified it would cause the dispute in another day.<sup>19</sup>

In the process of resolving customary rights disputes in VCI, the dispute resolution to reach an agreement or peace was not in the form of a verdict as in the court. As is known, if the decision given by the court to the disputing parties, it would be carried out by both parties, either by force or without the force of country instruments. Nevertheless, different from the results of discussion or peace at VCI, if one of the parties violates the peace, the sanction received is in the form of reproach or insult and exclusion from the surrounding citizens, or it can be said being discarded throughout the custom.

That was the case of land disputes between the heirs of the late Sainah with Zainal Abidin the former Dt. Rajo Pangulu. Although there had been a verdict from the Village Customary Institution, but with the power that they had, they still did not carry out the decision. From the results of interviews with the chairman of VCI, Dt Marah Bangso, the decision of the Village Customary Institution trial can be divided into two forms, including:

- a. *Kusuik manyalasai VCI* (overcoming) decision with peace throughout the custom.
- b. Decisions can be accompanied by the obligation to pay fines or customary money by certain parties.

The resolution of cases in the VCI court is always sought as quickly as possible to avoid the worry in citizen customary law. It is commonly occurred in the court of the VCI that a decision is taken within three times trial. However, the sooner or later a decision is taken on a case will be very determined and depended on the case that is going to be solved.

The decisions that have been set will be read out in the final session in front of both parties and public in attendance at the trial. Notification of the decision can also be conveyed by sending the written form to the related parties and to government agency, if the panel of judges worry about something they do not expect to happen, such as the quarrel or the violence. This makes the judges in the VCI court has difficulties in forcing its decision. In addition, it is also caused by the free chance of the parties who are not satisfied to submit their case to the State Court, and further, it would be solved based on the requirements and court hierarchy in Indonesia.

By the decision of VCI, it can be taken into consideration in continuing the case to the District Court. Article 12 paragraph (2) and (3) in Regional Regulation Number 16 of 2008 concerning Customary Land and its Utilization. The end of the case of land disputes between the plaintiff or the aggrieved party who is the late heirs of Sainah with another party, Zainal Abidin Dt. Rajo Penghulu, there is still no further action and the land is still controlled and occupied by Zainal Abidin, the former Dt. Rajo Penghulu

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<sup>18</sup> The Report letter to Sungai Tarab Police Sector, concerning Settlement of the Problem, dated February 19<sup>th</sup>, 2001

<sup>19</sup> *Ibid*

until now. As said by the aggrieved party, Mrs. Khairanis, that they want to continue this case to the Court on the basis of the decision from the Village Customary Institution of Sungai Tarab Village.

From the case above, it is clear that the dispute over customary land was not resolved even though it had obtained a verdict from the VCI Sungai Tarab Village. It means that the execution of a decision cannot be carried out due to several factors. It can be seen that the dispute resolved by the VCI consisted of Sako and Pusako disputes. Sako and Pusako are treasures inherited in the Minangkabau indigenous people, that are *Sako* and *Pusako* (inheritance). That inheritance is the inherited wealth in citizens of Minangkabau.

When it is compared to the dispute that occurred in Sungai Tarab Village, where the object of the dispute was the inherited land with the low value obtained from the trade which was carried out by their great grandmother. While in another dispute in the village of Supayang, according to Datuk Lelo Sampono as the head of VCI in the Supayang Village from the conflict that occurred in Sumpayang village, it is divided into two categories, namely horizontal conflicts and vertical conflicts. The first category is related to the conflict of customary rights of the internal family of the village community, such as the boundary conflict and various conflicts over land within the village. The second category is related to conflicts over customary rights involving village communities with the government or capital owners.

In customary land conflicts that occurred in Supayang Village, there is a control by the Parik Picancang Piliang Family. According to an interview to Mr. Nasir, the origin of the land came from the customary land of the family of *Datuk* Tianso, which is called Salo Caniago, where the problem of inheritance (housing land) was between Dt. (Salo Caniago) and family of Dt. Cumano (*parik picancang piliang*). Previously, the land was controlled by Dt. Tianso family, where *Datuak* Tianso and Dt. salo caniago agreed to give this land to Anwar Zen (a brother of Dt. Tianso) aiming to be managed as a place to live, as the time went by, Anwar Zen married to Liana from *parik picancang piliang* tribe from Dt. Cumano family. they both live Dt. Tianso's land. Then, they had 3 children named Nursida, Aryus, Sunin. Finally, Anwar Zen and Liana died, so the three children took care of the land. This makes Dt. Tianso family represented by the children of *Datuak* Tianso's family sued the children of the late Anwar Zen and Liana who still live there, and the children had a shop with their own capital.<sup>20</sup>

In the dispute over customary customary land there is also a personal business in it. Firstly, it is because of a mistake in understanding the descendant and inheritance of property, where in this case the children of the late Mrs. Liana from Dt. Cumano family do not understand descendant and inheritance of property, the land that they controlled now was a gift from *Datuk* Tianso, the head of the Salo caniago tribe, which was given to the father of these children who are called salo caniago. The two lands have been used as a place of livelihood for the defendants, that is from the children of the late Mrs. Liana, who made the family from *Datuk* Tianso have a sense of social jealousy and asked for their rights to return it because this land belongs to the family of Dt. Tianso.

According to Mrs. Nursida (family of Dt. Cumano), the first child of Liana's (late) mother as the defendant, stated that the land which had been abandoned by her parents had been being worked on well and had been made for a daily shop where the asset of the store was our own investment, so that the land becomes valuable, therefore, Dt. Tianso party sued us because they were jealous of our improving economic life from the results of the stalls that stood on this land.<sup>21</sup>

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<sup>20</sup> Interview with Mr. Nasir, Mayor of Supayang Village, Monday, November 26<sup>th</sup>, 2018, at VCI office, Supayang Village.

<sup>21</sup> Interview with Ms. Nursida, First Child of the late Mr. Anwar Zen and Ms. Liana, Wednesday, November 28<sup>th</sup>, 2018, at the house of Mrs. Nursida Usman Jorong Salo Caniago.



From the problems described above, the process of resolving the customary land by the family in Supayang Village, Salimpaung District, Tanah Datar Regency is done in 2 (two) types of settlement, which are:

- a. Settlement of the Customary Land Dispute through the indigenous people of Supayang Village.

According to *Datuk Lelo Sampono* in resolving a land conflict in Minangkabau custom, there are procedures that must be followed. The existing customary law citizen is the first citizen customary law community led by the family / tribesmen, while the last is VCI.<sup>22</sup>

The plaintiffs and the defendant name in the dispute over customary land in Supayang Village are:

- 1) Plaintiff Party (*Datuk Tianso* family):

- a) Suri;
- b) Anisman;
- c) Syafrial; and
- d) Hen.

- 2) Defendant Party (Family of Dt. Cumano):

- a) Nursida;
- b) Aryus; and
- c) Sunin

The customary land of the disputed family is located in Supayang Jorong Salo Caniago village, on which this land stands a house with the business of a shop which is inhabited by the children of the late Mr. Anwar Zen (Salo Caniago) and the late Mrs. Liana (*Parik Picacang Piliang*)

From the problems above, the head of the Dt. Tinaso, *Datuk Cumano*, actually gave a solution where the children of the late Mr. Anwar zein returned the land as the rights of the Salo Canago family, but the children of the late Anwar Zen, represented by Mrs. Nursida, did not accept it. *Datuk Cumano* cannot agree with the solution given by *Datuk Tianso*, because according to him this is very detrimental to his side.

From this problem, the Late Anwar Zen received customary rights to control and use the land to meet his personal and family needs, but Mrs. Nursida as the son of Anwar Zen who occupied the land had no obligation to master and use it collectively.

- b. The Resolution of the Customary Land Dispute Through the Village Customary Institution (VCI) Supayang Village.

VCI is an institution in the village that takes care of and maintains and preserves customs and culture in Minangkabau. VCI consists of various elements in the village such as:

- 1) The Headman or *datuk* of each tribe in the village;
- 2) *Manti* or *Cadiak Pandai* are intellectuals in the village;
- 3) *Malin* or *Alim Ulama*, the religious person in the village.
- 4) *Dubalang* or the security guard in the village.

<sup>22</sup> Interview with *Datuk Lelo Sampono*, Head of VCI in Supayang Village, at VCI Office in Sumpayang Village.

In a rural area, VCI's decisions are made by the Village Guard as a guideline in carrying out their government and must be adhered to by all the administrative communities as long as they do not violate the applicable rules and regulations. In addition to taking care of adat and preserving it, VCI is also an adat justice institution in a rural area.

In resolving customary land disputes between Dt. Tianso and Dt. Cumano family that could not be resolved between the two headmen was finally handed over by the Village Customary Institute (VCI) of Supayang. According to *Datuk* Lelo Sampono, there are many problems so that the dispute of customary land is not resolved, namely:

- 1) Selfishness of the headman of the Dt. Tianso and Dt. Cumano family for the problems of the customary land.
- 2) The misunderstanding of the headman of the Minangkabau customs towards resolving the dispute over the family Customary land;
- 3) The misunderstanding of Dt. Cumano family towards the promise of the inheritance.
- 4) The selfishness of both parties to the dispute is the family of *Datuk* Tianso (brother of Saparuiik Dt. Tianso) and *Datuk* Cumano. (Brother Separuiik Dt. Cumano).

The resolution was carried out by mediation, and at the end the dispute over the customary land of the family of Supayang Village between the family of *Datuk* Tianso and *Datuk* Cumano was completed by receiving a solution provided by the Head of VCI of Supayang Village, where the family of *Datuk* Tianso had to pay the losses they had received by children from *Datuk* Cumano family, and from *Datuk* Cumano who live in Customary land, the Caniago Family must leave the land. Along with the time, finally the Living Law Theory went well because of the VCI successfully resolved the customary land case, because VCI's knowledge especially in the case of customary land was better and in accordance with the true Minangkabau rules.

From 2 (two) samples of the Customary land dispute that occurred in Sungai Tarab village and Sungayang Village there were differences in the results of the VCI Decision. This is due to differences in character over the parties to the dispute. In the First case which occurred in the Tarab Village the verdict of the VCI was established but the plaintiffs in the case of execution were not executed because of their power so that the defendant could not do much and was unable to follow up at the Court's remarks.

While in the dispute that occurred in Sungayang Village, it was clearly seen the position of the case that the defendant clearly did not have the right to control the customary land of the citizen of his male parent, which was the land of *Pusako Tinggi*. Besides, in Minangkabau believe to the maternal system according to the lineage of the mother, so that the inheritance of the male parent can only be mastered as long as the man's parents are still alive. And conversely, if the old male parent has died, then the other members of the community are entitled to the land.

## **Conclusion**

Based on the research conducted by the researcher, conclusions can be drawn as follows:

1. Factors Causing the Disputes of Citizens' Land Registration in the Sungai Tarab Village, Tanah Datar District.

One thing that often drives land disputes is the lack of clarity of individual ownership in a juridical manner. The occurrence of land disputes is sometimes caused by its own problems that is when someone *malakok* (staying), even though they have followed the customary rules but are often placed as

second-class citizens, on the contrary, if the family are not developed while the immigrants are better in socio-economic, then they can eventually have the power from the native they were staying in. The process trading in legal administration is not strong, because it is not supported by strong and clear evidence. Regardless of customary reasons, the trading process actually creates obscurity and misunderstanding, especially for the heirs left behind.

2. The process of overcoming the dispute over registration of customary land in Sungai Tarab Village through Village Customary Institution (VCI).

Basically, the process of overcoming the customary land dispute that occurs in BPN Tanah Datar village is in accordance with the philosophy of "*Banjang Naik Batanggo Turun*". VCI will collect the written evidence and witness evidence, as well as the vow and will be decided based on deliberation and agreement by VCI Chairmen and members in accordance with Minangkabau customary law.

3. The Process of Overcoming Disputes on Customary Land Registration for Family at the Tanah Datar BPN.

Basically, the dispute resolution in Tanah Datar National Defense Agency (BPN) is the same as the other National Defense Agency (BPN). Dispute resolution is carried out by conflict, disputes and cases in the Land Office, which begins with the mediation of the disputing parties in the Land Office with the appointed mediator in the field of conflicts, disputes and cases at the Land Office. If the mediation committed fails, or the peace effort fails, the Land Office submits a dispute to the party in dispute to propose a lawsuit to the Court within 90 days after the notification by the Land Office. If within the period given the parties do not submit a lawsuit to the Court, the Land Office will continue the land registration process until the certificate requested by the applicant is made.

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