

Research Article

The adat recht mandondonkon saba in Sipirok district South Tapanuli regency

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Abstract.

Mandondonkon saba or rice field pawn is one of the legal acts regulated in the Sipirok customary law. The Mandondonkon Saba incident or occurred due to various things, including factors of very urgent or sudden economic needs. The purpose of this study was to determine how the implementation of the Mandondonkon Saba Customary Law and what the legal consequences were. The research method used is qualitative research with a qualitative descriptive analysis approach, which describes the reality that the author examines as a series of activities or processes to carry out information appropriately in the life of an object, which is linked to problem solving from both a theoretical and practical point of view. Targets and sources of research data. The result of this research is that the implementation of the mandodondonkon saba customary law in Sipirok sub-district has resulted in the transfer of the management rights of the rice fields from the owner to the person who gave the loan until the loan money is returned. Then the legal consequences resulting from the agreement are recognized by the state, in accordance with Article 5 of Law Number 5 of 1960 concerning Agrarian Principles.

Keywords: Mandondonkon saba; customary law; implementation

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1. Introduction

Sipirok District is part of the South Tapanuli Regency area, which is located in the southern part of North Sumatra Province. The majority population in Sipirok is the Batak halak (Batak people) who are the majority of the population, because this tribe is the pukka huta (who opened the village / village). The kinship relationship in the traditional life of the community is known as the Dalihan Na Tolu (Mora, Kahanggi and Anak Boru), which functions to regulate and resolve all affairs in the Huta or Village community [1]. Sipirok, as one of the rice-producing areas in South Tapanuli Regency, makes the community accustomed to the various ins and outs of problems in rice cultivation, as well as habits related to life in rice fields, for example the term marbola or production sharing agreements between land owners with those processing it, as stated by Boedi Harsono that: Perjanjian bagi hasil adalah suatu bentuk perjanjian antara seseorang

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yang berhak atas suatu bidang tanah pertanian dan orang lain yang disebut penggarap, berdasarkan perjanjian mana penggarap diperkenankan mengusahakan tanah yang bersangkutan dengan pembagian hasilnya antara penggarap dan yang berhak atas tanah tersebut menurut imbalan yang telah disetujui [2] In addition, there is also the term Mandondonkon Saba (pawning rice fields).

In the Angkola-en Mandailing-Bataksch-Nederlandsch Woordenboek dictionary, the word mandondonkon comes from the word dondon which means pacht [3], or in Indonesian it is the same as rent. The purpose of the lease in this mandondonkon saba is that a rice field owner first asks for a lease in the form of a loan to someone who then gives his rice field as collateral in accordance with the agreement they have agreed on. Mandondonkon saba or paddy field pawn events occur due to various things, including factors of urgent or sudden economic needs, so that a person must immediately get a number of funds both in goods and money to meet their needs, a farmer borrows from an individual to get a loan of an amount the funds he needed by mortgaging his rice fields. In this incident, it is not uncommon for the result to be very detrimental to the party who is pawning (pawning). This mandondonkon saba legal action is one of the recht customs in the Sipirok area. Adat recht is also called unwritten law, namely law that is still alive in the belief of the community, but is not written but is enforced according to laws and regulations [4]. The custom of recht in one region is not necessarily the same as in another, because the rules created in the community are not all made on purpose. Sometimes the behavior regulation is caused by the habits of some people who behave in this way repeatedly and other people follow it [5].

According to Van Vallen Hoven, customary law is a law that does not originate from regulations made by the former Dutch East Indies government or other instruments of power which are self-contained and held by the Dutch authorities themselves, and apply to indigenous people and foreigners of the East [6]The basis for the application of customary law in Indonesia began in the Dutch colonial era, where the first source of law to be seen was article 75 of the new Regerings Reglement, which took effect on January 1, 1920, which stated that European law would apply to European groups and apply to European law and to people. Original Indonesian. Article 75 RR is reinforced by article 130 IS which states that regions are given the freedom to follow their own laws [7]. Then after Indonesian independence, the legal basis for the application of customary law was confirmed through the 1945 Constitution Article 2 of the Transitional Rules, which stated that all state bodies and existing regulations were still valid, as long as new ones had not been made according to the Constitution [8]. If in the environment of the indigenous people of Sipirok it is known that there is an act of law Mandondonkon

saba. The people of Aceh is also known terms Gala Umong, which means that the mortgage field, the Islamic Shari'a legal transactions of mortgage called Ar-Rahn, that is a kind of agreement to hold an item as collateral debt (Azani, Law, Lancang, and Pekanbaru, nd). Islamic law commands its people to help each other well in the form of mortgage loans [9].

A mortgage in the Civil Code is listed in the twentieth section of verse 1150, which states that a mortgage is a right acquired by a creditor over a moving item, which is handed over to him by a debtor or by another in his name, and which gives power to the the creditor is to take payment of the goods in advance from the other creditors; with the exception of the cost of auctioning the goods and the costs incurred to salvage them after the goods are mortgaged, which costs must be preceded. he handed over the security for the loan. The guarantee will be controlled by the mortgagee during the execution of the mortgage until the redemption of the guarantee by the mortgagee, which is guaranteed in the form of moving goods, such as jewelry, electronic goods, and so on. When the pawnbroker is unable to pay the ransom for the mortgage within the agreed time, then the pawnbroker as the mortgagee will make an auction [10]. Goods that are not redeemed in time will be auctioned off, the proceeds from the auction will be used to pay the money borrowed by the giver from the mortgagee. In addition to mortgages according to the Civil Law Law Book, it is also known as land mortgages derived from customary law which until now is still alive in various customary law environments in Indonesia. Mortgage rights are also regulated in Law No. 5 of 1960 on the Basic Regulation of Agrarian Trees, especially in Article 16 paragraph (1) letter h. Where this land mortgage rights are included in one of the temporary land rights [7]. According to Boedi Harsono, a mortgage is a legal relationship between a person and the land belonging to another person, who has received mortgages from it. As long as the mortgage money has not been returned, the land is controlled by the mortgagee. During that time the entire land revenue became the right of the mortgagee. Refunds or what is commonly called "redemption", depend on the will and ability of the landlord who mortgages [2].

In addition to other sources of reference, researchers also take references from several other studies, which discuss the customary law of land mortgages, but with a different formulation of problems, such as research from Fitria Nursyarifah entitled " Muamalah ". The main problem of this study is how the farmers of Simpar village understand about mortgages in Islam and how the field mortgage practices that farmers do in the perspective of fiqh muamalah. Meanwhile, the results of this study conclude that the majority of Simpar village farmers do not understand mortgages in Islam and the

practice of rice field mortgages that commonly occur among Simpar village farmers there are two types, namely regular mortgages and hanging mortgages. Judging from the perspective of jurisprudence, these two covenants are not valid because the conditions related to *sighat* (*ijab kabul*) are not met. In addition, the practice of field mortgage is an exploratory activity because it is very beneficial to the mortgagee and very detrimental to the pawnbroker [8]. The second study is the research of M. Kamil Siregar, M. Nawir Yuslem, and Hafisah entitled "Mandondon Akad Tradition in the South Tapanuli Community Based on Islamic Law (Case Study in Sipirok District)". In this study, the main problem is how the essence and implementation of mandondon contract in Sipirok District, and how to review Islamic law on the tradition of Mandondon contract in Sipirok District. The results of this study show that the agreement of mandondon contract practice (mortgaging rice fields) if seen on the conditions that meet, already meet, but have not met the principle because in the pawnshop is not clear the deadline for repayment of debt to be made by the mortgagee to the mortgagee, then in its implementation that occurs in the Sipirok Community is not a perfect pawn or not in accordance with Islamic law. In the practice of mortgaging, researchers found the existence of an element of usury and the use of mortgaged goods [11] Based on the description, which is the formulation of the problem here is How the implementation of Mandondonkon Saba Customary Law in Sipirok District, Tapanuli Regency.

2. Method

The first paragraph after a heading is not indented (Bodytext style). This study uses a descriptive analytical method, which is a research method by revealing problems, processing data, analyzing, researching, and interpreting and making conclusions and providing suggestions which are then compiled systematic discussion so that the existing problems can be understood. In order to know and discuss a problem, in other words, research is an effort to find a very educational value [12] Targets and Sources of Research Data, which became the informants in this study were the people of the Sipirok District, South Tapanuli Regency related to the title of this study. In normative research, data collection, among others, is through library research which is carried out by collecting and studying primary legal materials (primary source), secondary legal materials (secondary sources), and tertiary legal materials. Primary legal materials are legal materials that have authority, meaning they are binding [13] The analysis technique used is descriptive qualitative data analysis technique, the findings in an interview

conducted by the author will be compared with what has been theorized and then the conclusion is sought.

3. Result and Discussion

3.1. Implementation of mandondonkon saba adat recht in Sipirok district, South Tapanuli regency

The process of implementing mandondonkon saba in Sipirok Subdistrict is no stranger to the local community, because this has been carried out from generation to generation, this mandondonkon saba process occurs because one party needs funds or money that are very urgent so they have to borrow from another party by providing collateral in the form of their own rice fields. , as stated by Baduasin Siregar, that "In the mandodonkon saba, the person who was mandodonkon saba borrowed money from the person who mandated him by providing collateral for his rice field". The agreement was carried out at the desire of the mandodonkon party, without coercion from the mandatory party, as conveyed by Amiruddin as the person who once mandated the rice field, that "because of an urgent need, I mandated my rice field without any coercion or pressure. from the mandondoni party ". after both parties agree to make a rice field madondonkon agreement, the borrower will receive the money in accordance with the mutual agreement, and the party lending the money must surrender his rice field as collateral. The rice fields that have been handed over can be used by the party who has lent the money until the borrower can return the money according to the mutual agreement, as stated by Sofyan Siregar as the elder in the Bunga Bondar Village, that "if the mandondonkon saba has received the loan and agreeing to an agreement with the party responsible for the rice field management, then the right to manage the rice fields is transferred to the party responsible for the loan until the loan is returned ", and Sofyan Siregar also added that" if the person responsible for the rice field cannot pay according to the time of the agreement, then the agreement is extended again, so that those who are mandatory can re-managing the rice fields, but cannot take over ownership of the rice fields ". So the implementation of mandondonkon saba in Sipirok District begins with the arrival of the party who will apply for a loan or mandondonkon saba to someone who is considered to be able to provide a loan or who is mandatory. By both parties, an agreement is made that the borrower will borrow money from the creditor, and as collateral is the borrower's land. The person who provides the loan may manage and take the produce from the field, until the borrower returns the money he borrowed. If the borrower cannot return it according to the agreement, the agreement

can be extended again, usually two or three harvests. Because the purpose of this agreement is to help people who are in distress, then in this agreement there is no term for confiscation of collateral, so that if the party responsible for saba is really no longer able to return the loan money, it will be discussed again how to solve it, not necessarily immediately confiscated the guarantee.

3.2. Due to the law mandondonko saba in Sapirok district, South Tapanuli regency

In accordance with Law No. 5/1960 concerning Agrarian Principles in Article 5 which states that "Agrarian law which applies to earth, water and space is customary law, as long as it does not conflict with national and state interests, which are based on national unity, with Indonesian socialism as well as with the regulations contained in this Law and with other statutory regulations, everything with due regard to the elements that rely on religious law ". Based on the contents of the law, the legal consequences resulting from the mandondonkon saba legal event are recognized by state law. Where the party who is mandatory has the right to manage and take the produce from the fields that have been in dondonkon, and the borrower cannot take over the ownership of the rice fields unilaterally if the borrower really cannot return the loan money, without any mutual agreement. If one of the parties breaks the promise, resulting in a dispute, then the judge in handling the case shall refer to Law Number 4 of 2004 concerning Basic Provisions of Judicial Power, in Article 28 paragraph (1) which states that, "The judge is obliged to investigate, follow, and understand the values of law and a sense of justice that live in society ", meaning that in society there is an unwritten law that applies. So that judges must be able to explore and understand the customary laws that apply in certain communities.

4. Conclusion

The implementation of mandondonkon saba in Sapirok Subdistrict, Tapanuli Selatan Regency is carried out based on a mutual agreement, where the borrower gives up his rice fields as collateral, and the rice fields can be used and the proceeds of the loan can be taken, until the money is returned by the borrower. Usually the contract period is two or three harvests. The legal consequence of this agreement is that the rights to manage the rice fields are transferred until the loan money is returned. This provision is recognized by state law In accordance with Law Number 5 of 1960 concerning Agrarian

Principles in Article 5 which states that "Agrarian law which applies to earth, water and space is customary law, as long as it does not conflict with national and State interests, which is based on national unity, with Indonesian socialism and with the regulations contained in this Law and with other statutory regulations, everything by heeding the elements that rely on religious law.

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