

Eigendom: A Dutch Colonial Legacy in Indonesia's Land Ownership System in Case Number 109 PK/Pdt/2022

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Abstract

Ideally, Indonesia's land ownership system should have fully adopted the provisions of the 1960 Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA), which abolished eigendom as a form of property ownership. However, in reality, legal disputes persist regarding former eigendom verponding land, as seen in Case Number 109 PK/Pdt/2022. This case reflects legal issues concerning land rights originating from the colonial system and their implications for legal certainty in land ownership in Indonesia. This study aims to analyze the legal status transformation of eigendom verponding after the enactment of the 1960 UUPA and to examine the legal impact of the Judicial Review (Peninjauan Kembali or PK) decision in Case Number 109 PK/Pdt/2022. This article falls under qualitative library research using a normative legal study methodology. The findings indicate that the legal status of eigendom verponding has been converted according to national agrarian regulations. However, in practice, differences in legal interpretation continue to arise, leading to land ownership disputes. Case 109 PK/Pdt/2022 reaffirms that land title certificates issued under agrarian law provisions hold greater legal recognition than ownership claims based on colonial-era eigendom verponding.

Keywords: *Eigendom, Land Ownership, Case 109 PK/Pdt/2022.*

Abstrak

Seharusnya, sistem kepemilikan tanah di Indonesia telah sepenuhnya mengadopsi ketentuan dalam Undang-Undang Pokok Agraria (UUPA) Tahun

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1960 yang menghapus status *eigendom* sebagai bentuk hak milik. Namun, realitasnya, masih terdapat sengketa hukum terkait tanah bekas *eigendom verponding*, seperti dalam Perkara Nomor 109 PK/Pdt/2022. Perkara ini mencerminkan permasalahan hukum mengenai status hak atas tanah yang berasal dari sistem kolonial dan implikasinya terhadap kepastian hukum dalam kepemilikan tanah di Indonesia. Penelitian ini bertujuan untuk menganalisis perubahan status hukum *eigendom verponding* setelah diberlakukannya UUPA 1960 serta mengkaji dampak hukum dari putusan Peninjauan Kembali (PK) dalam Perkara Nomor 109 PK/Pdt/2022. Artikel ini tergolong dalam penelitian pustaka berbasis kualitatif dengan metodologi studi hukum normatif. Hasil penelitian menemukan bahwa status hukum *eigendom verponding* telah mengalami konversi sesuai ketentuan agraria nasional, tetapi dalam praktiknya, masih menimbulkan perbedaan tafsir hukum yang berujung pada sengketa kepemilikan tanah. Perkara 109 PK/Pdt/2022 menegaskan bahwa sertifikat hak atas tanah yang telah diterbitkan berdasarkan ketentuan agraria lebih diakui dibanding klaim kepemilikan berdasarkan *eigendom verponding* kolonial.

Kata Kunci: *Eigendom, Kepemilikan Tanah, Perkara 109/PK/PDT/2022.*

Introduction

The Indonesian land law system has undergone a long and complex journey, influenced by various governmental regimes, starting from the Dutch colonial era to the post-independence period (Komaruddin, 2020). One of the colonial legacies that continues to cause legal problems today is *eigendom verponding*, a form of land ownership recognized under Dutch legal doctrine. The concept of *eigendom* granted absolute ownership rights to the holder, a form of ownership that differs significantly from the Indonesian land law system, which emphasizes the principles of nationality and social function (Ahlanissa & Aidi, 2023). Following changes in the land law system, particularly with the enactment of the Basic Agrarian Law (*Undang-Undang Pokok Agraria* or UUPA) of 1960, *eigendom* rights were no longer recognized as valid forms of ownership under the national legal system and were required to be converted into new rights that conform to Indonesian agrarian regulations.

In the context of Indonesia's positive law, the UUPA 1960 was designed to unify and harmonize the land law system to align with national interests. One of the core policies stipulated in this law was the abolition of various colonial land ownership rights, including *eigendom verponding*, and the obligation for holders of such rights to convert them into *hak milik* (freehold title) or other rights recognized by Indonesian agrarian law (Liadi, 2019). However, in practice, numerous land disputes still stem from former *eigendom verponding* rights, where former right holders continue to assert ownership claims despite the legal status having changed.

Ideally, the agrarian reform introduced by the UUPA 1960 was expected to create legal certainty for individuals and legal entities holding rights to land. The conversion of *eigendom verponding* rights should have proceeded orderly, without

causing legal conflicts between former right holders and other parties who obtained rights based on national agrarian regulations. This would have ensured that all citizens enjoy legal protection over their land ownership without facing legal uncertainty caused by the dualism inherited from the colonial land system (Tobing & Markoni, 2022). However, in reality, the implementation of this policy has been far from perfect. Many landholders still claim ownership based on *eigendom verponding* documents without converting them according to applicable regulations. This situation has led to legal problems, particularly regarding the status of *eigendom verponding* rights after the enactment of the UUPA 1960. A concrete example of this issue can be seen in Case Number 109 PK/Pdt/2022, which illustrates how land ownership disputes between parties claiming rights based on *eigendom verponding* and those referring to the national land law system continue to occur.

This research aims to analyze the legal status of *eigendom verponding* rights within Indonesia's land tenure system after the enactment of the UUPA 1960 and to examine the legal implications arising in the resolution of land ownership disputes based on these rights, with particular reference to Case Number 109 PK/Pdt/2022. Furthermore, this research will discuss how the Supreme Court's decision in this case sets a legal precedent for resolving similar cases in the future. Academically, this study is expected to contribute to the development of land law studies, particularly in understanding the legal position of *eigendom verponding* rights within Indonesia's agrarian legal system. Practically, this research may serve as a valuable reference for legal practitioners, judges, and policymakers in handling land ownership disputes involving colonial legacy rights.

Literature Review

Legal studies related to *eigendom verponding* rights within Indonesia's land tenure system are not a recent discovery. Various researchers have examined this issue using diverse methods and approaches. Hantal Donok Asi Lumban Tobing and Markoni, in their work entitled; "*Perlindungan Hukum Terhadap Pemegang Hak Eigendom Verponding Setelah Berlakunya Undang-Undang Nomor 5 Tahun 1960*", have analyzed how the law provides protection to holders of former *eigendom verponding* rights following the implementation of the Basic Agrarian Law (UUPA). The strength of this research lies in its in-depth analysis of legal protection for right holders based on the principles of justice and legal certainty under the UUPA (Tobing & Markoni, 2022). The similarity between their study and this research is that both examine the legal implications of former *eigendom verponding* rights within Indonesia's legal system. However, their research does not specifically address the impact of Case No. 109 PK/Pdt/2022 and how this decision influences the recognition of land ownership rights.

Pedro Sutanto, in his work; "*Akibat Hukum Bagi Pemegang Hak Bekas Eigendom Verponding dalam Sengketa Kepemilikan Tanah*", analyzed the legal consequences arising from the existence of *eigendom verponding* rights in the context of land ownership disputes. The strength of this study is its more specific focus on disputes involving *eigendom verponding* rights, including legal considerations drawn from various court decisions (Sutanto, 2022). The similarity

with the present study lies in the discussion of the legal status of former *eigendom verponding* rights in land dispute contexts. However, the main difference is that this research highlights more comprehensively the implications of Case No. 109 PK/Pdt/2022 as a legal precedent for the recognition of land ownership rights in the post-colonial era.

Amanda Khoirunnisa Salsabila et al., in their work; “*Studi Kasus Terhadap Putusan Peninjauan Kembali Nomor 109 PK/Pdt/2022 Dalam Kasus Dago Elos Ditinjau Dari Kitab Undang-Undang Hukum Perdata Dan Peraturan Terkait*”, specifically examine Case No. 109 PK/Pdt/2022 and how this decision can be analyzed from the perspective of civil law and other relevant land regulations. The strength of their research lies in its case study approach, providing a concrete analysis of the court's ruling (Salsabila et al., 2024). The similarity with this research is that both focus on the same case. However, the distinction is that this research not only examines the case individually but also relates it to the broader development of land law and its impact on the status of former *eigendom verponding* rights within Indonesia's land tenure system.

After reviewing the existing literature, it can be concluded that no research has comprehensively examined the position of *eigendom verponding* rights within Indonesia's land tenure system, specifically highlighting Case No. 109 PK/Pdt/2022 in the context of national land law. While previous studies have discussed various legal aspects of *eigendom verponding* rights, this research aims to fill the gap by analyzing how the ruling in this case could serve as a precedent in resolving land disputes involving colonial-era rights. This study contributes by connecting the historical aspects of *eigendom verponding* with the development of positive law while emphasizing how the decision in Case No. 109 PK/Pdt/2022 impacts the protection of land ownership rights. The absence of previous studies offering a systematic analysis of this ruling makes this research novel and significant for understanding the dynamics of Indonesia's post-colonial land law.

Research Methodology

This article employs a qualitative, library-based research method. The methodology used is normative legal research, focusing on the study of applicable legal norms, principles, and doctrines (Benuf & Azhar, 2020). This approach was selected as the research examines land rights under various legal instruments, including the *Basic Agrarian Law of 1960*, *Law Number 48 of 2009 on Judicial Power*, *Presidential Decree Number 32 of 1979*, *Minister of Home Affairs Regulation Number 3 of 1979*, *Government Regulation Number 24 of 1997*, and *Government Regulation Number 18 of 2021*. The primary legal sources used in this research include the *1945 Constitution of the Republic of Indonesia* along with its amendments, as well as relevant statutes and regulations. Secondary legal materials consist of literature related to land law, including journal articles and other academic studies.

The legal materials were collected through document studies, which involved an in-depth review of relevant regulations and literature. The analysis technique employed is qualitative analysis, involving the steps of systematization, description, and explanation. Systematization was applied to organize the legal

materials in a structured manner; description was used to explain the substantive legal provisions relevant to the research; while explanation aimed to elaborate and provide a comprehensive understanding of the legal issues under examination.

Eigendom: Definition, History, and Its Position in the Indonesian Legal System

Eigendom is a term in agrarian law derived from the Dutch language, which literally means 'ownership' or 'property right'. In the colonial land law system, *eigendom* referred to full ownership rights over land, granting the owner the authority to use, control, and transfer the land without specific restrictions from the government. This right is similar to the concept of ownership rights (*hak milik*) in modern agrarian law, but with fundamental differences in terms of legal recognition and regulation. In the context of civil law, *eigendom* is regulated in the *Burgerlijk Wetboek* (BW) or the Indonesian Civil Code (KUHPerduta) Article 570, which states that ownership (*eigendom*) is the highest right a person has over an object, including land, enabling the owner to enjoy, manage, and sell it without interference from other parties (Alam et al., 2024). However, this concept later underwent changes within the Indonesian legal system after independence, especially following the enactment of the Basic Agrarian Law (UUPA) No. 5 of 1960, which replaced the colonial land law system with a national agrarian law system that is fairer and aligned with the foundational principles of Indonesian law.

During the Dutch colonial period, the Indonesian land law system adopted European agrarian law, which granted land ownership rights to individuals or legal entities under *eigendom* status. Lands owned by Europeans, colonial companies, and certain groups were often granted under the *eigendom* title, providing legal certainty over ownership based on Dutch law. Over time, the *eigendom* concept developed as part of colonial policy to regulate land ownership. The Dutch East Indies government used this system to grant ownership rights to certain parties, including foreign plantation companies controlling vast lands for agricultural industries such as tea, coffee, and rubber plantations. At the time, the *eigendom* concept aimed to create legal certainty for foreign investors but often ignored the rights of indigenous communities who had long occupied and managed the land through customary systems.

After Indonesia gained independence, the colonial land law system began to be questioned for being incompatible with the social justice principles upheld by the new nation. Eventually, a major change occurred with the enactment of the Basic Agrarian Law (UUPA) of 1960, which replaced the *eigendom* concept with *hak milik* (ownership rights) as the highest form of land ownership in the national legal system. This decision was based on the spirit of nationalism and the effort to eliminate social inequalities inherited from the colonial era (Krismantoro, 2019). With the enforcement of the UUPA, lands previously under *eigendom* status were required to be converted into *hak milik* following applicable legal procedures. If conversion was not carried out within a specific period, the land would be considered state-controlled, and its management would be adjusted according to prevailing agrarian policies.

The existence of *eigendom* in the history of Indonesian land law has had a significant impact on various agrarian issues that still persist today. One of the main impacts is the emergence of land disputes between indigenous communities and *eigendom* holders, often descendants of colonial landowners. For example, many indigenous communities who have long occupied and managed certain lands for generations now face lawsuits from parties claiming ownership based on *eigendom* documents issued during the colonial period. In several cases, courts must consider not only formal legal aspects but also principles of social justice in resolving such disputes. Additionally, the existence of *eigendom* lands that were never converted also creates problems in land management across various regions. Lands with unclear legal status often become objects of land speculation, leading to conflicts between communities and parties claiming ownership based on old documents.

The Basic Agrarian Law (UUPA) of 1960 plays a crucial role in abolishing the *eigendom* concept and replacing it with a national agrarian legal system more aligned with social justice values. The UUPA introduced the principle that all land in Indonesia belongs to the state, but the state has the obligation to allocate it fairly for the benefit of the people (Widiastuti & Mahfud, 2024). The UUPA also emphasized that land rights must be based on the actual needs of society and should not solely benefit certain groups. By abolishing *eigendom*, the UUPA successfully ended the era of colonial-based land ownership and replaced it with a more democratic system. Nevertheless, the implementation of the UUPA has not completely eliminated the historical impacts of the *eigendom* system, as many lands still have unclear legal status or remain subject to disputes.

In an effort to resolve issues regarding lands still under *eigendom* status, the government has issued various policies, such as Presidential Decree No. 32 of 1979, which regulates the status of former *eigendom* lands and the mechanism for converting them into *hak milik*. Additionally, Minister of Agrarian Affairs and Spatial Planning Regulation No. 3 of 1997 provides further procedures regarding land rights registration and conversion. More recently, Government Regulation No. 18 of 2021 also introduced a new approach to resolving problematic land status inherited from the colonial era. Through these policies, the government aims to ensure that all lands still under *eigendom* status can be legally resolved, thus eliminating uncertainty for the community (Mu'in, 2015). However, the implementation of these policies does not always run smoothly due to several obstacles on the ground, such as the lack of accurate historical data and resistance from parties still seeking to maintain ownership status based on old documents.

Eigendom is one of the forms of land ownership rights originating from the Dutch colonial legal system, granting absolute ownership rights to its holder. Although it once served as the foundation for land ownership during the colonial period, this concept was abolished under Indonesia's agrarian legal system following the enactment of the Basic Agrarian Law (UUPA) of 1960. The abolition of *eigendom* was part of agrarian reform efforts to create a more just land ownership system aligned with social justice principles (Sutanto, 2022). However, the legacy of *eigendom* still causes various legal issues today, especially in land disputes involving indigenous communities and holders of old rights. To address these issues, the government has issued various policies that allow for the

conversion of *eigendom* into *hak milik* or the return of unconverted land to the state. Through these measures, it is hoped that Indonesia's agrarian legal system will continue to develop toward a more inclusive and just system for all citizens.

Chronology of Case No. 109/PK/PDT/2022

Case No. 109/PK/Pdt/2022 originated from a land ownership dispute between the Dago Elos Indigenous Community and the Muller family. This conflict stemmed from a claim of ownership filed by the Muller family over land that had been occupied for generations by the indigenous community. The Muller family's claim was based on old ownership documents from the Dutch colonial era, specifically an *Eigendom Verponding*. On the other hand, the Dago Elos Indigenous Community defended their rights by arguing that they had controlled, occupied, and utilized the land for decades, thus granting them ownership rights under customary law and ownership principles recognized by the Indonesian legal system (Syukur et al., 2022). This dispute was brought to court, where the Muller family argued that the land legally remained theirs based on the old ownership records contained in the *Eigendom* document.

Supported by various groups advocating for indigenous rights, the Dago Elos Indigenous Community rejected this claim, stating that the land had long been an integral part of their lives and livelihood. The case proceeded to the District Court, which ruled in favor of the Muller family on the grounds that they held stronger written evidence compared to the community's claim. The District Court's decision was challenged by the Dago Elos community, who felt that their rights were being ignored. They appealed to the High Court, arguing that the previous ruling had failed to consider customary rights and substantive justice principles rooted in society. However, the High Court upheld the District Court's decision, reasoning that the ownership documents submitted by the Muller family carried greater legal weight than claims based on prolonged occupation and customary usage.

Unsatisfied with this outcome, the Dago Elos Indigenous Community brought the case to the Supreme Court through a cassation appeal. They argued that Indonesian law should not rely solely on written ownership records from the colonial era but must also consider principles of justice and the recognition of indigenous rights. Unfortunately, at the cassation level, the Supreme Court still sided with the Muller family and affirmed that the land legally belonged to them. Nevertheless, the Dago Elos community's struggle did not end there. They pursued an extraordinary legal remedy through a Judicial Review (*Peninjauan Kembali* or PK) by submitting new evidence and arguments strengthening their rights to the land. In this Judicial Review, they argued that there had been changes in the legal framework, especially regarding the recognition of indigenous peoples' rights over ancestral lands (Putri & Susilowati, 2023). One of the legal foundations they presented was Government Regulation No. 18 of 2021, which replaced the old regulation of Government Regulation No. 24 of 1997 concerning the proof of old land rights.

The Supreme Court, in its Judicial Review ruling, ultimately granted the request of the Dago Elos Indigenous Community. In its legal reasoning, the judges

found that the disputed land had been continuously controlled and utilized by the indigenous community. Therefore, based on the principle of justice and the agrarian legal principles of Indonesia, land ownership rights should be recognized in favor of the indigenous people. The judges also emphasized that the *Eigendom Verponding* used by the Muller family as the basis of their claim was no longer valid under Indonesia's land law system, especially after the enactment of the 1960 Basic Agrarian Law (*Undang-Undang Pokok Agraria*), which abolished the colonial land ownership system and replaced it with the concept of Freehold Title (*Hak Milik*) (Sutikno, 2023). This ruling marked a significant victory for the Dago Elos Indigenous Community and became an important precedent for the protection of indigenous land rights against ownership claims based on outdated colonial legal systems. In its judgment, the court stressed that the law must not only focus on formal legal certainty but must also consider substantive justice and the continuity of indigenous peoples' rights within their social and cultural lives.

This case reflects how Indonesian law has evolved to better accommodate indigenous land rights. The decision also demonstrates that judges play a crucial role in interpreting the law, not merely adhering to written rules but also taking into account social aspects, historical contexts, and the realities of people's lives. Thus, the ruling in Case No. 109/PK/Pdt/2022 is not only a victory for the Dago Elos Indigenous Community but also a turning point in the recognition of indigenous rights within Indonesia's land law system (Mulyanti et al., 2025). Moreover, this case serves as a lesson for all parties on the importance of agrarian law reform to better support indigenous communities who have long faced various challenges in defending their land rights. This ruling is expected to serve as a foundation for resolving similar cases in the future, where indigenous rights often clash with ownership claims derived from outdated legal systems that are no longer relevant to modern legal developments in Indonesia.

In the context of land policy, this ruling also highlights the need for harmonization between customary law and state law within Indonesia's legal system. Recognition of indigenous peoples' rights to land should not only be seen as a formal legal matter but as part of the social justice that the state must uphold. The government and judicial institutions need to continue strengthening regulations that protect indigenous rights to prevent the recurrence of similar cases that harm communities who have long settled on their ancestral lands. This case also illustrates the ongoing challenges faced by Indonesian law in accommodating social change and historical legal shifts (Alvian & Mujiburohman, 2022). The decision stands as proof that law enforcement must be dynamic, taking into account societal developments and regulatory changes that favor substantive justice. Thus, this case is not merely about a land ownership dispute but also serves as a symbol of the indigenous community's struggle to gain recognition of their rights amidst the evolving legal and agrarian policy landscape.

Protection of Indigenous Peoples in National Agrarian Law

The protection of indigenous peoples regarding land ownership rights inherited from the Dutch colonial system is a complex issue and has long been a subject of debate in Indonesia's national agrarian law. In Case Number

109/PK/PDT/2022, indigenous communities faced challenges in defending their rights over land claimed as state land due to the non-conversion of Western rights within the specified time limit (Sari, 2023). This raises serious concerns about justice for indigenous peoples who have inhabited and managed such land for generations. In the context of agrarian law, land rights derived from the Dutch colonial legal system underwent conversion following the enactment of the Basic Agrarian Law (UUPA) Number 5 of 1960.

Rights such as *erfpacht*, *opstal*, and *gebruik* were converted into cultivation rights (*Hak Guna Usaha*), building use rights (*Hak Guna Bangunan*), or use rights (*Hak Pakai*). However, landowners were required to carry out the conversion procedures within the stipulated timeframe. Otherwise, the land would revert to state land. This provision became the basis for the state to claim non-converted lands as part of its authority. Indigenous peoples in Indonesia often lack written legal proof over the lands they occupy, even though they have managed such lands for generations. This situation contradicts the principle of legal protection contained in Article 18B Paragraph (2) of the 1945 Constitution, which recognizes and respects the rights of indigenous peoples as long as they are in line with national interests (Sari, 2023). This contradiction creates legal uncertainty for indigenous communities regarding land ownership.

Presidential Decree Number 32 of 1979 reaffirmed that lands originating from Western rights must be converted within a certain period. If not, the land would become state land. However, in practice, this conversion process is often not understood by indigenous communities, who still regard such land as a legitimate ancestral inheritance. As a result, they lose rights over the land they have cultivated for years. In Case Number 109/PK/PDT/2022, one notable case involved a land dispute between the Muller family and the indigenous Dago Elos community. The disputed land originated from *Acte Van Eigendom Verpondings* Numbers 3740, 3741, and 3742 owned by George Hendrik Muller. According to the UUPA, this land should have been converted before September 24, 1980. However, until that deadline, the Muller family did not submit a conversion application, resulting in the land being declared state land.

The Dago Elos indigenous community, which had long inhabited and cultivated the land, eventually filed a land ownership claim based on physical occupation that had lasted for decades. In terms of legal protection, Government Regulation Number 24 of 1997 concerning Land Registration stipulates that land rights must be proven by written documents. However, in the case of indigenous peoples, many do not possess written proof but only evidence of physical occupation and testimony from surrounding communities (Syukur et al., 2022). To address this issue, Article 95 of Government Regulation Number 18 of 2021 allows the recognition of land rights based on physical occupation for more than twenty years, provided there is no dispute from other parties.

Nevertheless, in practice, indigenous communities still face difficulties in obtaining legal recognition of their land. Several factors hinder this, including limited access to legal information, insufficient resources to process land certification, and pressure from parties with economic interests over the land. In the Dago Elos case, although the community had occupied the land for many years, their claim was rejected during the judicial review process of this case. Ownership

rights over land in Indonesia's agrarian legal system constitute the strongest and most absolute rights, as regulated under Article 20 of the UUPA. However, in the context of indigenous communities, the recognition of ownership rights often conflicts with prevailing social realities. Customary rights passed down through generations are often not recognized in the positive legal system, which prioritizes written evidence. As a result, indigenous peoples face significant challenges in defending the land they have cultivated for so long.

Furthermore, Article 21 Paragraph (3) of the UUPA emphasizes that foreign nationals are not permitted to own land in Indonesia, except in the form of building use rights (*Hak Guna Bangunan*) or use rights (*Hak Pakai*). This becomes problematic in cases of disputes over colonial inheritance lands, where dual ownership frequently occurs between former colonial individuals or families and local indigenous communities. In the Dago Elos case, the Muller family, as heirs of the colonial landowner, no longer had legal rights over the land due to the lack of conversion, yet they still filed a claim over the land occupied by the indigenous community. The ruling in Case Number 109/PK/PDT/2022 confirmed that the claim made by the heirs of the former colonial owner had no strong legal basis (Mulyanti et al., 2025).

However, this does not automatically provide legal certainty for the indigenous community. The disputed land remains considered state land, meaning the indigenous community must undergo a lengthy legal process to obtain recognition of their ownership rights. This indicates that there are still loopholes in the agrarian legal system that need to be addressed to more effectively protect the rights of indigenous peoples (Sahar et al., 2025). As an effort to strengthen protection for indigenous communities, policy reforms that are more favorable to indigenous interests are necessary. One step that can be taken is to clarify the mechanism for converting customary land so that it is more accessible to the community. Moreover, strengthening the role of customary institutions in the land registration system can also be a solution to provide better legal protection for indigenous communities.

Analysis of Judicial Decision: Implementing Article 5 of the Judicial Power Act and Protecting Indigenous Peoples' Rights

The judge's decision in case number 109/PK/PDT/2022 has fulfilled the provisions of Article 5 of Law Number 48 of 2009 concerning Judicial Power. In the principles of the Indonesian judicial system, judges are obliged to explore, follow, and understand the legal values and the sense of justice that live within society. This represents a legal system that is not solely based on written rules but also considers social aspects and substantive justice that develops within the community (Muhtadi, 2015). The judge in this case has sought to issue a decision that is not only legally valid but also reflects justice for the disputing parties.

As part of an independent judicial system, judges have the freedom to make decisions without interference from other parties. The concept of judicial independence aligns with Article 24 of the 1945 Constitution, which affirms that judicial power in Indonesia is independent (Harry & Jannani, 2020). In this case, the judge did not merely rely on positive law but also interpreted the law based on

the principles of justice that have developed in society. Thus, the resulting decision is expected to reflect a balance between legal certainty and substantive justice for the indigenous community involved in the dispute.

In the field of civil law, the judge is tasked with upholding the civil legal order (*burgerlijke rechtsorde*) and seeking formal truth, as stated by Eggen. In this context, the truth sought is not the material truth as in criminal cases, but rather the truth based on evidence presented by the parties. Accordingly, the judge in this case acted as an objective adjudicator and made a decision based on the evidence submitted and relevant legal arguments (Nurokhim, 2021). Moreover, within the Indonesian judicial system, judges have the right to refuse to examine a case if there is a conflict of interest, such as kinship or personal interests that may interfere with their independence.

The judge in this case demonstrated integrity by carrying out duties professionally, without being influenced by pressure or the interests of any particular party. The existence of the right of recusal mechanism in the judiciary provides protection for the parties to obtain a fair and impartial trial process. In deciding this case, the judge took into account the provisions of Article 5 paragraphs (1) and (2) of Law Number 48 of 2009, which requires judges to understand the legal values and sense of justice in society (Kartika, 2016). By considering the historical aspects of land ownership, the judge assessed that the indigenous community has a stronger right to the disputed land. This decision shows that the judge was not merely bound by the literal text of the law but also considered the social context and legal history applicable in Indonesia.

Furthermore, Article 10 paragraph (1) of Law Number 48 of 2009 stipulates that courts may not refuse to examine a case on the grounds that the governing law does not exist or is unclear. In this case, the judge took a proactive step by exploring various relevant legal sources, including newer regulations such as Article 95 of Government Regulation Number 18 of 2021, which replaced the old provisions of Government Regulation Number 24 of 1997 regarding the proof of old land rights. This shows that the judge in this case not only acted as an enforcer of the law but also as an active seeker of justice. The judge's decision also reflects a deep understanding of the *Lex Posterior Derogat Legi Priori* principle, meaning that newer laws override older laws (Septiany & Septianita, 2024). By considering the validity of Government Regulation Number 18 of 2021, the judge concluded that the ownership claim by the Muller family could not be based on outdated regulations.

Additionally, the judge also noted that the Muller family did not have sufficient concrete evidence to support their ownership claim over the disputed land. Another aspect considered by the judge was the status of the land controlled by the state. In Indonesian agrarian law, land controlled by the state is not necessarily free from the rights of indigenous peoples. In this case, the people of Dago Elos had occupied and utilized the land for generations, indicating the existence of land rights based on customary law. Thus, the judge's decision provides protection for the rights of indigenous peoples within the land ownership system in Indonesia.

The judge also considered the principle of good faith in this case. The fact that the Muller family did not develop the disputed land indicates the possibility of

misuse of the law for certain interests. On the other hand, the indigenous people who had occupied the land for a long time have stronger legitimacy to acquire ownership rights. This is in line with the principle of justice, which places the rights of indigenous peoples as part of the legal system that must be protected. The judge's decision in this case is also supported by various other regulations related to the status of former *Eigendom Verponding* lands, such as Presidential Decree Number 208 of 1953, Presidential Decree Number 32 of 1979, and Minister of Home Affairs Regulation Number 3 of 1979 (Widiastuti & Mahfud, 2024). By referring to these various regulations, the judge showed that the decision taken had considered a broader legal framework and was not limited to a single legal source.

As a form of legal protection for indigenous peoples, this decision reflects the principle that the law must provide justice for those who historically have a strong relationship with the disputed land. The judge in this case has taken steps to ensure that the decision made is not only legally valid but also reflects substantial justice for the indigenous community involved in the case. Thus, the judge's decision in case number 109/PK/PDT/2022 is a reflection of the implementation of the principles of Article 5 of Law Number 48 of 2009. This decision not only shows the professionalism and integrity of the judge in upholding the law but also serves as an example of how the law can function as a tool of justice that provides protection for vulnerable communities. This decision also serves as an important precedent in the context of protecting the rights of indigenous peoples against land ownership claims derived from colonial legacies.

Conclusion

The legal status of *Eigendom Verponding* has undergone significant changes following the enactment of the Basic Agrarian Law of 1960. Ownership rights to land based on *eigendom* are no longer recognized as ownership rights (*hak milik*) within the national land law system, but must be converted in accordance with the applicable legal provisions. However, in practice, many holders of former *eigendom verponding* rights face administrative and legal obstacles in maintaining or claiming their ownership rights, especially when dealing with other parties who claim the land based on more recent land documents and regulations.

Case Number 109 PK/Pdt/2022 reflects the complexity of land disputes involving former *eigendom verponding* rights and the modern land law system in Indonesia. In its ruling, the Supreme Court considered not only the historical aspects of land ownership but also the principles of legal certainty and the protection of land rights within the national agrarian law system. This case shows that the recognition of land rights is not solely based on old ownership documents but must be aligned with the current agrarian legal system. Therefore, efforts to harmonize regulations and improve legal certainty for land rights holders are essential to prevent prolonged conflicts in the resolution of land ownership disputes.

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