



## LAW & SOCIAL POLICY | RESEARCH ARTICLE

# Legal Arrangements and Remedies for Abandoned Land: A Normative Study

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**Abstract:** This study aims to find out the legal arrangements regarding abandoned land regarding land ownership rights and find out the legal remedies that can be taken by holders of ownership rights over abandoned land. This study uses the Normative legal research method, namely approaching legal norms or substance, legal principles, legal theory, legal arguments and comparative law. The results of this study indicate that overcoming the abandoned land phenomenon is a big task for the government. Based on this reason, Government Regulation No. 20 of 2021 concerning Controlling Abandoned Areas and Lands and participating in implementing Law Number 5 of 1960 concerning Basic Agrarian Basic Regulations. The erasure of land rights due to neglect. Through the inventory stage which is carried out no later than 2 (two) years from the issuance of land rights, management rights, or basis of land tenure. The results of this implementation are then processed into land data indicated as abandoned, divided into 3 stages, Abandoned Land Evaluation, Abandoned Land Warning and Abandoned Land Determination. Legal remedies taken by landowners who have been neglected through ordinary legal remedies and extraordinary legal remedies. Besides that, through non-litigation channels, namely, arbitration, negotiation, mediation, conciliation, expert reasoning. The author's recommendation is the need to carry out supervision and counseling regarding procedures regarding the importance of ownership of land rights. To the public, in this case the owner of land rights should have consideration in choosing legal remedies that are not always only through litigation or court. However, many things must be considered, such as the relatively long time, unmeasured costs, court decisions often cannot be executed immediately, and often court decisions are colored by the interference of other parties. Therefore, it is necessary to reconsider the settlement through non-litigation channels which is actually faster and cheaper than through litigation which has many obstacles.

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## 1. INTRODUCTION

Land plays a major role in the dynamics of development. In the Republic of Indonesia, the life of the people, especially the economy, is still agrarian. Practically the movement of every type of human life, either directly or indirectly, requires land. According to Article 4 paragraph (1) of Law

Law Number 5 of 1960 on the Basic Regulation of Agrarian Principles (hereinafter referred to as UUPA), it is stated that land is the surface of the earth and the body of the earth beneath it as well as that under water. The definition of land includes the surface of the land and the surface of the earth under water, including sea water.

Law No. 5/1960 on the Basic Regulation of Agrarian Principles explicitly regulates land rights. Land rights are rights that authorize each right holder to use and/or benefit from land.

Land Registration is a series of activities carried out by the government continuously, continuously and regularly, including collecting, processing, bookkeeping and presenting and maintaining physical data and juridical data, in the form of maps and lists regarding land parcels and apartment units, including the provision of certificates as proof of rights for land parcels that already have rights and property rights to apartment units and certain rights that encumber them. (Amir, 2019; Prakoso, 2021; Sri Murni, 2018)

Basically, the State grants land rights or management rights to rights holders to be cultivated, used, and utilized and maintained properly in addition to the welfare of the rights holders must also be aimed at the welfare of the community, nation and state. Of course, when the state grants rights to people or legal entities, it is always accompanied by obligations in the decree granting the right. Therefore, right holders are prohibited from abandoning their land as mentioned in Article 2 of Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations, which regulates the legal consequences, namely the nullification of the land rights concerned and the termination of legal relations and is affirmed as land directly controlled by the State, (Gatra et al., 2018; Middin et al., 2021) which then becomes the basis for the state to regulate the granting of land rights as stated in

Article 4 paragraphs (1) and (2) of Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations:

- 1) On the basis of the right of partial control referred to in Article 2, various kinds of rights over the surface of the earth, known as land, are to be granted to and owned by individuals, either alone or jointly with other individuals and legal entities.
- 2) The land rights referred to in paragraph 1 of this article authorize the use of the land in question, as well as the body of the earth and the water and the space above it, merely for the purposes directly related to the use of the land, within the limits set by this Law and the regulations made thereunder this Law and other higher regulations of law.

As already regulated, the extinguishment of property rights includes the land falling to the state due to revocation, voluntary surrender, abandonment, and destruction of the land. Other impacts of land neglect also hamper the achievement of various development program objectives, vulnerability of food security and national economic resilience, closed socio-economic access of the community, especially farmers to land, as well as a sense of justice and social harmony.

Based on overall data related to the object of land disputes in the Makassar District Court Decisions from the last three years, namely, in 2020 there were 29 cases, in 2021 there were 17 cases, and in 2022 there were 31 cases of land dispute objects.

Therefore, land abandonment must be prevented and issued to reduce or eliminate its negative impact. Thus, the prevention, issuance, and utilization of abandoned land are important steps and prerequisites for carrying out national development programs, especially in the agrarian sector, which have been mandated by the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Principles Regulation, and the National Long-Term Development Plan. (Zein, 2014)

One example occurred in Pannampu urban village, Tallo sub-district, Makassar city in case No. 213/Pdt.G/2020/PN Makassar, where it was stated that there was a plot of land covering an area of approximately 34,485 m<sup>2</sup> which was a land right owned by M. Arsyad Sitaba which had been controlled and cultivated by generations and continuously until 1990. However, the defendant (in this case the Mayor of Makassar) took unilateral action to take over, and stockpile, the disputed object for the purposes of the construction of Pannampu Market, which is considered an unlawful act. The case example shows that there has been a transfer of a person's property rights on behalf of M. Arsyad Sitaba without his prior knowledge. This is what then underlies M. Arsyad Sitaba as the holder of property rights to file a civil lawsuit against the Mayor of Makassar.

So based on this there are at least 2 things that must be researched, namely How is the legal regulation of abandoned land against land ownership rights and What legal efforts can be made by holders of property rights on abandoned land. The purpose of the research is to know and understand the legal arrangements regarding abandoned land and understand the legal remedies that can be taken by holders of property rights on abandoned land. The benefits of the journal are divided into two, namely the theoretical benefits of providing references and literature in the development of law, especially in the field of civil law related to legal arrangements regarding abandoned land in the Indonesian legal system. The practical benefits are that it can provide an explanation of the problems studied and as input for the parties involved in this research.

## 2. Research Method and Materials

This research is normative legal research, which is a type of research conducted with an approach to legal norms or substance, legal principles, legal theories, legal arguments and legal comparisons. The types and sources of legal materials used in this research are primary, secondary and tertiary legal materials, the three legal materials used in this research are materials that can provide information and information about the problems and objectives of this research by collecting, tracing, and examining various related literature. In this study, there is also a legal material collection technique carried out by literature study of legal materials, both primary legal materials and secondary legal materials, tracing legal materials can be done by reading, viewing, and tracing legal materials through internet media. Then the author's analysis in this research is prescriptive analytical research, namely studying legal objectives, values of justice, validity of legal rules, legal concepts and legal norms that provide suggestions and recommendations.

## 3. Results and Discussion

### 3.1. Actuality of Legal Arrangements on Abandoned Land against Land Ownership Rights

Government Regulation Number 20 of 2021 concerning abandoned land and land management has used a legal basis since 2021 to prevent abandoned land and land. This is expected to prevent and create legal certainty regarding the provision of abandoned land. (Afriyandi, 2018);

Mujiburohman, 2018) Article 1 Paragraph (12) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 20 of 2021 concerning Procedures for Curbing and Utilizing Abandoned Areas and Land. "Abandoned land is titled land, Management Rights land, and land obtained based on DPAT, which is deliberately not cultivated, not used, not utilized, and/or not maintained."

The stipulation of this regulation aims to prevent abandoned land and provide legal certainty regarding the provision of abandoned land. Thus, the government seeks to optimally utilize and manage abandoned land to meet community needs and prevent land scarcity that can hamper development.

Government Regulation No. 20 of 2021 provides guidelines on the procedures for controlling and utilizing abandoned areas and land. Through this regulation, it is expected to create order in the management of abandoned land and increase the utilization of existing land. When the land team provides socialization to the community, there is a desire to prevent and reduce the existence of abandoned land, through this latest regulation aims to prevent and reduce the amount of abandoned land. Abandoned land is often not optimally utilized and can be a source of problems such as uncertainty of ownership, conflict, or abuse. With the rules governing the procedures for controlling and utilizing abandoned land, the government seeks to ensure that the land can be utilized effectively and productively. (Nurdin, 2022)

This latest regulation creates legal certainty and through this regulation also aims to create legal certainty regarding the provision of abandoned land. With a clear definition of abandoned land, rights to such land can be better regulated. This helps in decision-making regarding the use and management of abandoned land and provides clarity to the public regarding the status and rights to the land. (Prasista et al., 2022)

Last but not least, optimizing land utilization is the main objective of this regulation. By curbing and utilizing abandoned land that was previously not cultivated, not used, not utilized, and/or not maintained, the government hopes to increase land productivity and meet the community's need for land for development and investment. Effective utilization of abandoned land can also contribute to economic growth and community welfare.

The rights that are the object of issuance include Property Rights, Business Use Rights, Building Use Rights, Use Rights, Management Rights and Land Acquired on the Basis of Tenure over Land. Specifically, property rights are regulated in Articles 20 through 27 of the UUPA. Hak Milik is a hereditary, strongest and fullest right that people can have over land, keeping in mind the provisions of land having a social function. Owned land becomes the object of curbing Neglected Land if it is deliberately not used, not utilized, and/or not maintained so that (a) It is controlled by the community and becomes a village area; (b) It is controlled by other parties continuously for 20 (twenty) years without any legal relationship with the Right Holder; or (c) The social function of Land Rights is not fulfilled, whether the Right Holder is still there or is no longer there. (van der Muur, 2018)

If the land is controlled by other parties continuously for 20 years without any legal relationship with the right holder, it will become the object of controlling abandoned land. Prevention and control of abandoned land must be done to reduce and even eliminate its negative impact. This phenomenon is a big task for the government to overcome abandoned land. Based on these reasons, Government Regulation No. 20 of 2021 concerning the Control of Abandoned Areas and Land was issued as an implementation of Law Number 11 of 2020 concerning Job Creation Article 180 and also implements Law Number 5 of 1960 concerning Basic Agrarian Principles as stated in Article 27, Article 34, and Article 40 related to the nullification of land rights due to abandonment. (Elbert & Fernando, 2021)

Then, to determine the land that is indicated as abandoned, it is necessary to conduct a land inventory first. The Land Office is authorized to conduct the land inventory. Furthermore, the inventory process is carried out no sooner than 2 (two) years from the issuance of Land Rights, Management Rights, or Basic Land Tenure. (Elbert & Fernando, 2021) The results of the inventory of indicated abandoned land are attached with textual data and spatial data, then the results of the implementation of the land inventory are processed into land data indicated as abandoned. The land data indicated as abandoned is followed up with the Land Termination of Abandoned Land carried out through three stages:

#### 3.1.1. Evaluation of Abandoned Land

Article 23 Paragraphs (1) and (2) of Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land states:

- (1) The evaluation of abandoned land aims to ensure that the Right Holder, Management Right Holder, or Basic Land Tenure Holder cultivates, uses, utilizes, and/or maintains the land owned or controlled.

- (2) The evaluation of abandoned land shall be carried out by a committee formed and determined by the head of the Regional Office.
- (3) Evaluation of abandoned land as referred to in paragraph (1) at least includes:
  - a. Examination of documents on Land Rights, Management Rights, or Basis of Land Tenure;
  - b. Utilization, and/or maintenance of the land;
  - c. Factual examination of the exploitation, use, utilization, and/or maintenance of the land; and
  - d. Notification to the Right Holder, Management Right Holder, or Basic Land Tenure Holder to cultivate, use, utilize, and/or maintain the land owned or controlled.
- (4) The evaluation as referred to in paragraph (1) shall be carried out within a period of 180 (one hundred and eighty) calendar days.
- (5) In the event that based on the results of the evaluation it is known that the Right Holder, Management Right Holder, or Basic Land Tenure Holder deliberately does not cultivate, does not use, does not utilize, and/or does not maintain the land owned or controlled, the Head of the Regional Office shall issue a notification to the Right Holder, Management Right Holder, or Basic Land Tenure Holder to cultivate, use, utilize, and/or maintain the land owned or controlled within a maximum period of 180 (one hundred eighty) calendar days as of the date of issuance of the notification.
- (6) In the event that the period as referred to in paragraph (5) expires and the Right Holder, Management Right Holder, or Basic Land Tenure Holder still does not cultivate, does not use, does not utilize, and/or does not maintain the land owned or controlled, a warning process shall be carried out.

The evaluation stage of abandoned land is carried out within 180 calendar days by a committee formed and determined by the head of the regional office with the aim of ensuring that the land rights holder has utilized and/or maintained the land he owns. If, as a result of the evaluation, it is proven that the freehold land is not being utilized or/and maintained or in other words, concrete things that must be done properly, a notification will be issued and a warning process will be carried out. (Elbert & Fernando, 2021)

This regulation ensures that right holders manage the land, the evaluation of abandoned land aims to ensure that right holders, management right holders, or basic land tenure holders cultivate, use, utilize, and/or maintain the land they own or control. Thus, the aim is to encourage right holders to effectively manage and utilize the land they own. The evaluation of abandoned land is conducted by a committee formed and determined by the head of the Regional Office. This committee is responsible for conducting an examination of land rights documents, the use, utilization, and maintenance of the land, and an examination of the factual exploitation, use, utilization, and/or maintenance of the land. If the results of the evaluation show that the right holder is deliberately not cultivating, not using, not utilizing, and/or not maintaining the land owned or controlled, the head of the Regional Office gives notice to the right holder to cultivate, use, utilize, and/or maintain the land within a certain period of time, which is a maximum of 180 calendar days from the date of issuance of the notice. Action if the right holder does not fulfill the obligation: If the right holder does not cultivate, use, utilize, and/or maintain the land within the specified period, the head of the Regional Office may take further action in accordance with the applicable provisions. Overall, the articles expect holders of rights to abandoned land to carry out their responsibilities to optimally cultivate, use, utilize and/or maintain the land. If not, the government can take action to ensure that the land is properly utilized and managed in accordance with the applicable provisions.

### 3.1.2. Warning of Abandoned Land

The warning of abandoned land contains three warnings as stated in Article 25 of Government Regulation Number 20 of 2021 concerning the Curbing of Abandoned Areas and Land as referred to in:

- 1) In the event that based on the results of the evaluation it is concluded that there is Abandoned Land, the head of the Regional Office shall give the first written warning to the Right Holder, Management Right Holder, or Basic Land Tenure Holder and other interested parties.

- 2) The first written warning as referred to in paragraph (1) contains a warning to the Right Holder, Management Right Holder, or Holder of Basic Tenure over Land to cultivate, use, utilize, and/or maintain the land within a maximum period of 90 (ninety) calendar days from the date of receipt of the first warning letter.
- 3) The Head of the Regional Office shall give a second written warning to the Right Holder, Management Right Holder, or Basic Land Tenure Holder to cultivate, use, utilize, and/or maintain the land within a maximum period of 45 (forty-five) calendar days as of the date of receipt of the second warning letter.
- 4) The Head of the Regional Office shall issue a third written warning to the Right Holder, Management Right Holder, or Basic Land Tenure Holder to cultivate, use, utilize, and/or maintain the land within a maximum period of 30 (thirty) calendar days as of the date of receipt of the third warning letter.
- 5) In addition to being delivered to the Right Holder, Management Right Holder, or Basic Land Tenure Holder, the first, second, and third written warnings shall also be delivered to: a. The Minister; b. The holder of a mortgage right, in the event that the land is encumbered with a mortgage right; and c. The head of the agency that manages state/regional property or assets of state/regional owned enterprises, in the event that the land has the status of state/regional property or assets of state/regional owned enterprises.

The warning is made in writing so that the right holder tries to cultivate, use, utilize, and/or maintain the land that is controlled and is given three times. The period of time for the right holder to cultivate, use, utilize, and/or maintain the land is 90 (ninety) days, 45 (forty-five) days, and 30 (thirty) days. If until the third warning letter, the head of the regional office within a maximum period of 30 (thirty) working days proposes the determination of abandoned land to the Ministry of Agrarian Affairs and Spatial Planning.

### 3.1.3. Designation of Abandoned Land

Article 30 of Government Regulation Number 20 of 2021 concerning the Curbing of Abandoned Areas and Land states:

- (1) In the event that the land to be designated as Neglected Land is in the form of land rights or management rights land and is an entire stretch, the determination of Neglected Land shall also include:
  - the abolition of Land Rights or Management Rights;
  - termination of legal relationship; and
  - affirmation as state land of former Tanah Telantar directly controlled by the state.
- (2) In the event that the land to be designated as Tanah Telantar is in the form of a land right or a management right and is part of an expanse, the determination of Tanah Telantar shall also contain:
  - the extinguishment of the Land Rights or Management Rights on the part that is abandoned;
  - the termination of the legal relationship between the Right Holder or Management Right Holder and the abandoned part of the land;
  - confirmation as state land of former abandoned land directly controlled by the state on the abandoned part of the land; and
  - an order to revise the size of the Land Rights or Management Rights
- (3) In the event that the land to be designated as Abandoned Land is land that has been granted the Basis of Land Tenure, the determination of Abandoned Land shall also contain:
  - termination of the legal relationship between the holder of the Basis of Land Tenure and the land being controlled; and
  - affirmation as state land of former Tanah Telantar directly controlled by the state.
- (4) In the event that the land to be designated as Neglected Land has the status of state/regional property or assets of state/regional state-owned enterprises, the determination of Neglected Land also contains a recommendation to the head of the agency that manages state/regional property or assets of state/regional state-owned enterprises to cultivate, use, utilize, and/or maintain the land.

Article 31 of Government Regulation Number 20 of 2021 concerning the Control and Area of Abandoned Land states that:

- (1) The revision of the area as referred to in Article 30 paragraph (2) letter d shall be borne by the Right Holder, Management Right Holder, or Holder of Basic Land Tenure.
- (2) In the event that the revision of the area as referred to in paragraph (1) has not been carried out, the Right Holder, Management Right Holder, or Basic Land Tenure Holder cannot carry out other legal actions related to the land.
- (3) If within a maximum period of 180 (one hundred and eighty) calendar days the revision of area as referred to in paragraph (1) has not been implemented by the Right Holder, Management Right Holder, or Holder of the Basis of Land Tenure, then the land that is not abandoned shall be considered as one unit with the land that is abandoned and become Abandoned Land as a whole.

Article 31 of Government Regulation Number 20 of 2021 concerning the Control and Area of Abandoned Land states that:

- (1) Land that has been designated as Neglected Land, within a maximum period of 30 (thirty) calendar days from the determination, must be vacated by the former Right Holder, Management Right Holder, or Basic Land Tenure Holder.
- (2) In the event that the former Right Holder, Management Right Holder, or Basic Land Tenure Holder does not fulfill the obligations as referred to in paragraph (1), the objects on it become abandoned assets.

If in some expanses in the event that the land to be designated as Neglected Land has the status of state/regional property or assets of state/regional owned enterprises. Therefore, Land that has been designated as Neglected Land within 30 days of the determination must be vacated and objects located on it become neglected assets. Land designated as Neglected Land can become an Asset of the Land Bank. The purpose of regulating land is to ensure legal certainty in the control and utilization of land for the implementation of legal protection for the people. (Ramadhani, 2021)

If the land is owned or used by individuals or land controlled by the government, the right holder does not have the economic ability and/or the Government Agency (Central / Regional) does not have enough budget to cultivate, use, or utilize according to the circumstances or nature and purpose of granting the right, it will increase which was originally not an object of abandoned land, will become an object of abandoned land.

Further rules are explained in Article 44 of the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 20 of 2021 concerning Procedures for the Control and Utilization of Abandoned Areas and Land. Inventory of land indicated as abandoned is carried out by the Provincial Head of the Regional Office of the National Land Agency (hereinafter referred to as BPN) based on information from the results of field monitoring by the Head of the Regency / City Land Office. The right owner is obliged to report the use and utilization of land in accordance with the decision to grant land rights or the basis for land tenure from the authorized official.

The policy on the utilization of abandoned and vacant land is the implementation of the National Agrarian Reform Program (PPAN). Abandoned land is one part of the objects to be redistributed in this policy. The first legal regulation that regulates the control of abandoned land is Government Regulation Number 36 of 1998 concerning the Control and Utilization of Abandoned Land. This regulation was followed up by the Decree of the Head of the National Land Agency Number 24 of 2002 concerning Provisions for the Implementation of Government Regulation Number 36 of 1998 concerning the Control and Utilization of Neglected Land. But in reality, these regulations are not effective.

Land that is indicated to be abandoned from the results of the inventory and has been designated as a target, is identified from the administrative aspect and physical research of the land is carried out by Committee C formed and determined by the Provincial BPN Regional Office. This is in accordance with Decision Number 199/Pdt.G/2019/PN PBr where in the decision the Panel of Judges argued that the land could not be said to be abandoned land because the defendant II was still fulfilling its legal obligation to pay the PBB within the timeframe as described in the decision. In this case the PBB is important for the purposes of protecting land or buildings.

The identification process of land indicated as abandoned will be decided in the Committee C hearing and will be outlined in the Minutes of the Committee C hearing

regarding abandoned land, then the Provincial BPN Office will notify and at the same time issue

Written Warning Letter I to the owner of the land rights, so that within a period of one month from the date of issuance of the Warning Letter, must use the land in accordance with its condition or according to the nature and purpose of granting the right or according to the permit / decision / letter as the basis for its control.

Based on the above statement, the author argues that the legal regulation of abandoned land has been stated in Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land which then conducts an inventory process of indicated land through several stages, thus drawing results in determining abandoned land. Further arrangements are listed in the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 20 of 2021 concerning Procedures for Curbing and Utilizing Abandoned Areas and Land.

### 3.2. Actual Legal Remedies that can be Exercised by Holders of Property Rights on Abandoned Land

Legal remedy is an effort provided by law for a person or legal entity in certain cases to challenge a judge's decision as a place for parties who are dissatisfied with a judge's decision that is deemed not to fulfill a sense of justice, because the judge is also a human being who can inadvertently make mistakes that can lead to wrong decisions or take sides with one of the parties. (Sitorus, 2020) Legal remedies in resolving the issue of abandoned land, there are types of legal remedies in Civil Procedure Law divided into 2 (two) types, namely:

#### 3.2.1. Ordinary Remedies

Ordinary legal remedies, are legal remedies used for decisions that do not yet have permanent legal force consisting of: (Sitorus, 2020)

- a. Resistance (*verzet*), is a legal remedy against a decision outside the presence of the Defendant (called a *verstek* decision). *Verzet* means opposition to a *verstek* verdict that has been handed down by the court of first instance filed by the defendant who was decided by the *verstek*, within a certain time, which is submitted to the District Court that decided the case. regulated in Article 129 paragraph (1), Article 196, Article 197 HIR;
- b. Appeal, is a legal remedy taken when one of the parties is not satisfied with a decision of the Court of First Instance. regulated in Article 21 paragraph (1) of Law No. 4 of 2004 concerning Judicial Power, "Against the decision of the court of first instance, an appeal may be filed to the superior court by the parties concerned, unless the law provides otherwise. What is meant by the exception is aimed at civil cases that do not need to be appealed, but directly cassation to the Supreme Court. The period for filing an appeal is 14 days after the verdict is read out if the parties are present or 14 days after notification of the verdict if one of the parties is not present.
- c. Cassation, regulated in Article 30 of Law No. 14 of 1985 jo. Article 30 of Law No. 5 of 2005 Concerning Supreme Court jo. Article 30 of Law No.4 of 2004 concerning the Supreme Court, stating the reasons for filing a cassation, among others:
  - 1) Lack of authority or exceeding the limits of authority. The lack of authority in question relates to the relative and absolute competence of the court, while exceeding the limits of authority can occur if the court grants a lawsuit more than what is requested in the lawsuit letter.
  - 2) Misapplication or violation of the applicable law. What is meant here is a mistake in applying the law both formal and material law, while violating the law is the application of the law carried out by the *judex facti* is wrong or contrary to the provisions of the applicable law or it can also be interpreted that the application of the law is not properly carried out by the *judex facti*.
  - 3) Failure to fulfill the conditions required by the legislation which threatens the negligence with the nullity of the decision concerned.

### 3.2.2. Extraordinary Remedies

A verdict that already has permanent legal force (*Ingkrach*) then ordinary legal remedies can no longer be taken, so with the acquisition of definite legal force a decision can no longer be changed. A decision will obtain definite legal force if there are no more ordinary legal remedies available. For decisions that have obtained definite legal force, special legal remedies are available. These special legal remedies are only allowed in certain cases mentioned in the law, including extraordinary legal remedies are Judicial Review and Resistance from third parties. (Chandra, 2019)

#### i. Litigation

Litigation is the meeting of the parties to a dispute to conduct a dispute resolution process in court with the aim of defending their respective rights. (Puhi et al., 2021) The result of the entire process is a verdict stating that one side wins and the other side loses.

- The District Court has the authority to examine, decide, and resolve land disputes in Indonesia from a civil aspect, this is based on Article 50 of Law No. 2 of 1986 concerning General Courts. 2 of 1986 concerning General Courts which regulates the absolute authority of the district court, which reads "The District Court is tasked and authorized to examine, decide and resolve criminal cases and civil cases at the first level."
- The State Administrative Court (PTUN) based on Law Number 5 of 1986 concerning State Administrative Courts has the authority to examine, decide and resolve land disputes in Indonesia from an administrative aspect, this is based on "The court has the duty and authority to examine, decide and resolve State Administrative disputes."

The definition of State Administrative disputes itself states that "State Administrative Disputes are disputes arising in the field of state administration between persons or civil legal entities and state administrative bodies or officials, both at the central and regional levels, as a result of the issuance of state administrative decisions, including employment disputes based on applicable laws and regulations."

Land disputes adjudicated by or under the authority of the State Administrative Court are disputes that arise due to a determination issued or not issued by a State Administrative Body or Official that contains State Administrative legal action in accordance with applicable regulations and is individual, concrete, and final. The determination in question is a certificate of land ownership rights, or a decree granting land rights, issued by the State Administrative Body, namely the National Land Agency (BPN) to a person or civil legal entity that creates a legal effect, namely ownership of land and is final. (Arwana & Arifin, 2019; Sahnan et al., 2019)

#### ii. Non-Litigation

Settlement of civil disputes through non-litigation dispute resolution (out of court dispute settlement), a law that specifically regulates Dispute Resolution Arbitration, namely Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (APS Law). It can be said that the law is the *Lex Specialis* of alternative dispute resolution. The law explains what is meant by alternative dispute resolution. Article 1 point 10 of Law No. 30 of 1999 defines "Alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely out-of-court settlement by means of consultation, negotiation, mediation, conciliation or expert judgment". (Hasbi, 2020a; Verawati et al., 2020)

#### iii. Arbitrase

According to Article 1 Point 1 of Law of the Republic of Indonesia Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Arbitration is a way of resolving a civil dispute outside the public courts based on an arbitration agreement made in writing by the parties to the dispute. The parties to the dispute can choose their own arbitrators for dispute resolution based on the agreement of the parties, so that the arbitrators who handle the case may be experts or have special knowledge about the dispute at hand. (Wiguna, 2018)



In implementing the arbitration award on the discussion of the arbitration award, which in article 59 paragraph 1 states "Within 30 days from the date the award is pronounced, the original sheet or authentic copy of the arbitration award is submitted and registered by the arbitrator or his attorney to the registrar of the District Court".

District court". It can be examined in article 59 paragraph 1 of Law Number 30 Year 1999 that the Arbitration award must be registered at the latest with the institution that accepts registration is the Registrar of the District Court. Article 60 states "Arbitration awards are final and have permanent legal force and are binding on the parties" meaning that the arbitration award is "final and binding", this is based on the agreement of the parties. (Hasbi, 2020b)

iv. **Consultation**

Consultation is a personalized action between a particular party called a "client" and another party who is a consultant who provides his or her opinion to the client to fulfill the client's needs. Consultation is a form of conflict resolution that is done behind closed doors. (Kartono, 2020)

v. **Negotiation**

Negotiation is a two-way communication, where each party expresses their wishes. Negotiation is one of the methods that can be carried out by the parties based on the agreement of the parties or without the agreement of the parties, before negotiations are carried out, one party first invites the other party to meet face to face, contact, or communicate in other ways.

vi. **Mediation**

Mediation is a way of resolving disputes through a negotiation process to obtain agreement between the parties assisted by a mediator. The mediator's involvement in the dispute is only as a trigger for the parties to reach a peaceful settlement, so the mediator generally does not interfere in determining the contents of the peace agreement, unless it is really needed. The content of the peace agreement is the absolute right of the parties to determine without any intervention from outside parties. Mediation provisions can also be found in Law No. 30 of 1999 which states: "Dispute resolution using a third party is attempted so that the problems that occur end peacefully between the parties to the dispute. (Irwanda et al., 2023)

vii. **Conciliation**

Conciliation or conciliation in English which means peace in Indonesian. Conciliation is one of the alternative dispute resolution institutions that can be found in Article 1 paragraph (10) of Law Number 30 of 1999 which reads: "Alternative dispute resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation or expert judgment".

viii. **Expert Assessment**

Expert judgment is a statement requested by the parties to a dispute to a particular expert who is considered to have a better understanding of the dispute material. Expert opinion is requested both on the subject matter of the dispute and outside the subject matter of the dispute, if it is needed, or in other words, expert opinion generally aims to clarify the issue between the parties.

## 4. Conclusion

The regulation of abandoned land is based on Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land, Law Number 5 of 1960 concerning Basic Agrarian Principles, Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the Land Agency of the Republic of Indonesia concerning Procedures for the Control and Utilization of Abandoned Areas and Land. Article 22 of Government Regulation Number 20 of 2021 concerning the Curbing of Neglected Areas and Land, namely land data indicated as abandoned, is followed up

with the curbing of abandoned land through three stages, namely evaluation of abandoned land, warning of abandoned land and determination of abandoned land. And the legal remedies that can be taken by holders of property rights to abandoned land are ordinary legal remedies and extraordinary legal remedies including litigation through the courts and the State Administrative Court. Non-litigation is a settlement outside the court by means of consultation, negotiation, mediation, conciliation or expert judgment. Based on the discussion of the research results and conclusions that have been stated, there are several suggestions to related parties, namely the first to the government to carry out supervision and counseling on procedures regarding the importance of ownership of land rights, both in curbing and utilizing lands that have been abandoned by individuals, as well as certain legal entities, which control land tenure rights in the local area. So that this does not hamper national development programs. And to the community, in this case the owner of land rights should have consideration in choosing legal remedies that are not always only through litigation or court channels, but must also consider many things, such as relatively long time, unmeasured costs, court decisions often cannot be directly executed, and often court decisions are colored by interference from other parties. Therefore, it is necessary to reconsider the settlement through non-litigation channels is faster and cheaper than through litigation which has many obstacles.

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