

THE MEANING OF THE SUPREME COURT'S DECISION NUMBER 1505K/PDT/2020 ON THE LEGAL POSITION OF TRADITIONAL LAND

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ABSTRACT

Every citizen has the right to obtain legal remedies as well as remedies for violations of rights they have suffered as well as a fair legal settlement. Law Number 39 of 1999 Article 6 Paragraph (1) states that customary rights must be respected and protected by taking into account the prevailing laws and regulations. In East Nusa Tenggara Province, customary land is known as tribal land. Over time, the customary lands in NTT were weakened by the issuance of the NTT Provincial Regulation No. 8 of 1974 concerning the Implementation of Affirmation of Land Rights. However, the NTT Provincial BPN Regional Office objected to the regulation and then issued a letter to the NTT Governor stating that NTT needs to form an institution that specifically conducts research on the existence of indigenous peoples. This is confirmed by Supreme Court Decision Number 1505K/PDT/2020 which confirms that the object of dispute in this case is customary land belonging to the Konay family.

Keywords: Customary Land, Meaning of Supreme Court Decision, Customary Land Law

MAKNA PUTUSAN MAHKAMAH AGUNG NOMOR 1505K/PDT/2020 TERHADAP KEDUDUKAN HUKUM TANAH ADAT

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ABSTRAK

Setiap warga negara berhak memperoleh upaya hukum sekaligus pemulihan atas pelanggaran hak yang mereka derita maupun penyelesaian hukum secara adil. Undang-Undang Nomor 39 Tahun 1999 Pasal 6 Ayat (1) menyebutkan bahwa hak adat harus dihormati dan dilindungi dengan memperhatikan peraturan perundang-undangan yang berlaku. Di Provinsi Nusa Tenggara Timur tanah adat dikenal dengan tanah suku. Seiring dengan berjalannya waktu tanah adat yang ada di NTT semakin dilemahkan dengan dikeluarkannya Perda Provinsi NTT No. 8 Tahun 1974 Tentang Pelaksanaan Penegasan Hak Atas Tanah. Namun Kanwil BPN Provinsi NTT berkeberatan dengan Perda tersebut lalu mengeluarkan surat kepada Gubernur NTT yang isinya mengatakan bahwa NTT perlu membentuk lembaga yang khusus melakukan penelitian tentang eksistensi masyarakat adat. Hal ini dikuatkan dengan Putusan Mahkamah Agung Nomor 1505K/PDT/2020 yang menegaskan bahwa tanah obyek sengketa dalam perkara ini adalah tanah adat milik keluarga Konay.

Kata kunci : Tanah Adat, Makna Putusan Mahkamah Agung, Hukum Tanah Adat