



ASPECTS ACTION CRIMINAL IN ENCROACHMENT EX HGU LAND BY THE COMMUNITY

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Received: 02/03/2026 | Revised: 08/03/2026 | Accepted: 25/03/2026 | Published: 30/03/2026

Abstract

Encroachment land former Right to Cultivate (HGU) is problem complex laws Because involving aspect law criminal law agrarian , administration land , as well as conflict social between society , companies , and government . Research This aim For analyze aspects action criminal in control and encroachment land former HGU by the community in the Regency Asahan , North Sumatra, and identify form accountability criminal offenses that can be applied . Research use method law juridical normatively supported approach empirical . Data obtained through studies to regulation legislation , documents land , decision court , as well as interview with apparatus enforcer law , agency land , government areas and communities that control land former HGU. Research results show that mastery land former HGU not in a way automatic can qualified as action criminal encroachment land . Determination element criminal must based on the clarity of the rights status on land , expiry of HGU validity period , return process land to the state, the existence of right other legitimate parties , as well as element intent and action oppose law . Form action potential criminal offenses happen covering enter or control land without permit , forgery document land , destruction , threats , violence and actions obstruct implementation decision or policy government . However , the use of law criminal must done in a way carefully and placed as effort final Because part conflict sourced from ambiguity administration , inequality mastery land , and demands redistribution land by the community . Completion case need coordination between government area , office land , apparatus enforcer law , companies and society through land status verification , mediation , reform agrarian , as well as enforcement the law that provides certainty , justice and protection for all over party .

Keywords : former Right to Cultivate, encroachment land , action crime , conflict agrarian , Regency Sharpening .

INTRODUCTION

The land has position important in life Indonesian society because No only functioning as place residence and resources livelihood , but also has mark economic , social , cultural , and political . For the community agrarian , control and utilization land be one of element main in maintain sustainability life . At the same time , increasing need to land , limited availability land , as well as Not yet orderly administration land often cause disputes and conflicts between society , companies plantations , government , and other parties who claim own connection law with land the . Constitution Number 5 of 1960 concerning Basic Rules of Procedure Agrarian confirm that earth , water, and space space at the level highest controlled by the state as organization power all the people. The right to control is granted by the state authority to government For arrange designation , use , inventory , and maintenance land , determine connection law between people and land , as well as arrange actions related laws with land . With Thus , the policy land in essence must directed For reach as much as possible prosperity of the people with still ensure certainty law and protection to legitimate rights .

One of right on known land in law agrarian national is the Right to Cultivate, which is then called HGU. HGU is right For try land under control directly by the state in term time certain for activity agriculture , fisheries , or livestock farming . Granting of HGU to individual or legal entity give birth to authority For use and obtain benefit economy from land , at the same time cause obligation For try land in accordance with objective giving rights , guard function environment , fulfill obligation to the country, and respect interest communities around the plantation area

HGU is not applicable rights without time limit . This right can end Because term time expired , canceled by the authorized official , released by the holder rights , revoked For interest general , neglected , or Because other specified reasons in regulation legislation . After the HGU ends , the ownership status land must determined based on decisions and actions administration land from authorized agency . The expiration of HGU does not always means that land the in a way automatic become right owned by the community that has occupy or working on it . Otherwise , used HGU holders also do not can Keep going control land only with based on the expiry of the rights has end without existence extension , renewal , or base other valid laws .

Problem the show that land former HGU is located in room complex laws . In one side , the land whose rights has ends in principle return is at in state control and determination utilization furthermore is authority government through the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency. On the other hand , on land the often there is the community that has to control , cultivate , plant , build place stay , or hang life in a way hereditary . Condition This can cause conflict between certainty formal law , mastery physical , historical connection public with land , claims reform agrarian , and interests investment or activity plantation .

Problems land former HGU was also found in the Regency Asahan , North Sumatra. This area own activity vast plantations and history mastery land involving company plantations , business entities state- owned , government-owned , and surrounding community plantations . Government Regency Asahan in 2025 delivered existence problem land former PTPN HGU with wide approximately 5,873 hectares . In coordination land the stated that land whose rights has end No Again become owned by PTPN and has enter in category state land , so that determination giving or its utilization become authority of the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency.

Problem regulation and utilization land former HGU in the Regency Sharpening Still become attention government region . On April 20, 2026, the Regional People's Representative Council of the Regency Sharpening carry out meeting coordination about utilization and regulation pattern room land former HGU. Government Regency Asahan also carries out discussion related with the company's HGU plantations and emphasize the need utilization land in accordance provision regulation legislation as well as interest public around . Condition the show that settlement land former HGU in Asahan No only problem administrative , but also related with spatial planning , welfare society , investment , security , and potential emergence actions criminal .

In practice , mastery land former HGU by the community often called as encroachment land . The term encroachment land generally used For describe action enter , use , occupy , control , cultivate , or take benefit from land without permission entitled party or its power . However , the use of term the must done in a way be careful . Not every mastery physique on land former HGU can direct qualified as action criminal . Determination existence action criminal must based on evidence regarding legal status land , the party who owns it authority or legitimate rights , forms actions perpetrator , element intentionality , nature oppose law , as well as the consequences that arise .

Prohibition usage land without permission entitled party or his power has arranged in Regulation Government Replacement Constitution Number 51 of 1960. Regulation the covers usage land in a way direct and No direct without valid permits , including land plantations . Although Thus , its implementation to land former HGU requires inspection to who can categorized as entitled party after the HGU ends . If land has return become land controlled by the state, former HGU holders have not yet Of course can positioned as the party that is still own right full on land the . On the other hand , neither is control by society automatic become legitimate if Not yet there is determination , permission , redistribution , or giving right from officials authorized land .

In addition to use land without permission , conflict mastery land former HGU can followed by other actions that have dimensions criminal , such as use document fake , gift information that is not Correct in administration land , destruction plant or building , threats , violence , embezzlement results plantations , destruction boundary marks , as well as obstruct implementation decision officials or decision court . Because of that that , study to action criminal in case land former HGU not can only focus on action occupy land analysis must done to overall series actions , position the law of the parties , and the tools evidence that shows existence error as well as characteristic oppose law .

Since January 2, 2026, the law Indonesian criminal law enters stage new with its validity Constitution Number 1 of 2023 concerning the Criminal Code . Provisions crimes outside the Criminal Code have also been customized through Constitution Number 1 of 2026 concerning Adjustment Criminal . Changes the demand apparatus enforcer law and researchers For notice principles in the national Criminal Code when evaluate accountability criminal , including element error , nature oppose law , trial , participation , responsibility corporation , goals punishment , and choice type sanctions .

Implementation law criminal to the society that dominates land former HGU must also be notice principle that law criminal is effort final or *ultimate remedium* . Approach crimes committed without moreover formerly ensure land status can cause criminalization to real society currently fight for access on land or demand settlement conflict agrarian . On the other hand , no he did enforcement law to real actions accompanied by violence , forgery , destruction , or mastery organized For get benefits can also be obtained create uncertainty law and disturbing order public .

Settlement case land former HGU because That need strict separation between dispute administration land disputes civil , conflict social , and action criminal . Dispute about end or whether or not HGU, land boundaries land , extension process rights , determination state land , or giving right basically new moreover formerly must checked through mechanism administration land . Meanwhile that , dispute about ownership , control , loss , or agreement between the parties can completed through mechanism civil law . Criminal law new implemented if there is actions concrete that meets all over element offense based on tool valid evidence .

A number of study previously generally discuss conflict agrarian , protection public cultivators , end of HGU, redistribution land , as well as enforcement law to encroachment land in a way separate . Still limited research that is special linking legal status land former HGU with elements action criminal offenses that can be attached to the society that controls it , especially in context Regency Sharpening . In fact , clarity connection between law agrarian and legal criminal law is very necessary For prevent implementation law criminal in a way premature and at the same time give protection to interests of the state, shareholders legitimate rights , as well as public .

Novelty study This lies in the analysis integrated regarding land status former HGU, forms mastery carried out society , elements actions oppose law , accountability criminal law , as well as limits on use instrument criminal in settlement conflict land research This No only evaluate whether action public can categorized as encroachment land , but also test Who parties who are law entitled give permission , how consequence law the end of the HGU, and when conflict mastery land can switch from realm administration or civil become case criminal .

Based on description said , research This aim For analyzing legal status land former HGU controlled by the community in the Regency Sharpening , identifying forms and elements action possible criminal offenses arise in mastery land mentioned , as well as analyze form accountability criminal offenses that can be implemented to actors . Research this also aims formulate pattern capable solution integrate certainty law , justice social , protection society , and enforcement proportional law . Research results expected can give contribution theoretical for development law criminal land as well as become material consideration for government , apparatus enforcer law , agency land , company plantations and communities in finish conflict land former HGU in the Regency Sharpening .

LITERATURE REVIEW

Action criminal law in essence is acts prohibited by regulations legislation and accompanied by with threat criminal for everyone who violates it . In knowledge law criminal , term action criminal often equalized with term *strafbaar feit* , crime , act criminal , as well as incident criminal . Although there is difference term , whole understanding the leading to a actions human beings who fulfill formulation laws , are of a nature oppose law , and can accountable to the perpetrator . Moeljatno explain that actions criminal is an act prohibited by a rule law with accompanied by threat criminal certain for the violating party prohibition mentioned . Definition This show that there is connection close between prohibited acts and threats criminal penalties imposed by the state. However thus , the existence of something actions criminal Not yet in a way automatic cause the perpetrator can convicted Because Still required proof about existence error , ability responsible answer , and no existence reasons that eliminate criminal .

Simons looked action criminal as action violate the law that is carried out with on purpose or Because negligence by someone who can asked accountability and by law stated as actions that can punished . Based on view said , the action criminal No only related with the actions taken , but also includes characteristic oppose law , error , and ability responsible answer from the perpetrator . Therefore that , in analyze suspicion encroachment land former Right to Cultivate, no Enough only prove that public has occupy or control land said . Enforcer the law must also prove that actions That prohibited by law , carried out without rights , accompanied by intentional or negligence , and can accountable in a way criminal to the perpetrator .

Element action criminal in a way general can differentiated become element objectives and elements subjective . Elements objective related with form action , object that becomes target , condition certain accompanying actions , consequences , and relationships because consequences . Meanwhile that , element subjective relate with condition inner perpetrators , such as existence intent , negligence , intention certain knowledge , and will . In case mastery land former HGU, elements objective can in the form of actions enter , occupy , cultivate , use , build ,

harvest results plantation , moving boundary marks , or divert mastery land to other parties . The elements subjective can seen from knowledge perpetrator regarding land status , existence reprimand from party authorized , refusal For leave land , or action still control land although has know that himself No own permission or base legitimate rights

The principle of legality is the primary basis for determining whether a crime has occurred. Based on this principle, a person can only be punished if their actions have been defined as a crime by law before the act was committed. Therefore, the term "land grabbing," often used in society, must be linked to a specific definition of the crime. Law enforcement cannot simply state that someone has grabbed land; they must also demonstrate the criminal provisions violated and prove all the elements contained therein. This is crucial to prevent law enforcement from being based on subjective judgments or solely on the claims of one party.

Resistance nature law also becomes very important element in case encroachment land . Act it is said oppose law if contradictory with regulation legislation , violating the rights of others, carried out without authority , or contradictory with obligation law perpetrator . In case land former HGU, nature oppose law No can determined only based on who is physique control land . Assessment must done regarding HGU status, term time rights , there are or whether or not extension or update , land status after the HGU ends , and position law the society that dominates land the . If the land status Not yet clear , then element without rights and characteristics oppose the law is also not yet Of course can stated fulfilled .

The term encroachment land Alone No formulated as One term juridical single in all over regulation legislation . In practice , term the used For describe action take take over , enter , occupy , use , control , or take benefit from something field land without permission and without base legitimate law . Encroachment land can happen to land owned by individual , legal entity land , state land , land plantations , as well as the previous land burdened with HGU. However thus , the character every object land different so that provision the laws applied must also be customized with land status the .

In law land , control land can differentiated become mastery physical and mastery juridical . Mastery physique show who is real use , occupy , or work on land , whereas mastery juridical show who has base right or connection law recognized by the state. A person can control land in a way physique but No own base valid law . On the other hand , the party who owns right in a way juridical can experience difficulty For control land in a way physique Because land the has occupied other parties . Differences between mastery physical and mastery juridical often become reason main emergence conflict land .

Prohibition use land without permission entitled party or his power among other things regulated in Regulation Government Replacement Constitution Number 51 of 1960. Provisions the forbid usage land without permission from the entitled party , either usage carried out in a way direct and No directly . Usage land in context This can in the form of occupy , use , cultivate , build , or take benefit from land . Although Thus , the implementation provision the to land former HGU requires clear determination about who can categorized as entitled party or his power . After term when HGU ends , former HGU holders do not always Still can considered as the party that owns right full on land On the other hand , the people who occupy land also not in a way automatic have right only Because has master it in a way physique .

The Right to Cultivate is one of the type right on regulated land in Constitution Number 5 of 1960 concerning Basic Rules of Procedure Agrarian . HGU is right For try land under control directly by the state in term time certain for interest business agriculture , plantations , fisheries , or livestock farming . HGU has different characters with right owned by Because limited by term time , purpose use , area land , as well as obligations that must be fulfilled fulfilled by the holder rights . HGU holders do not have power absolute to land , but rather only get authority For use and take advantage of land in accordance with objective giving right .

HGU holders have right For strive and obtain benefit economy from the land given to him . However , HGU holders are also burdened obligation For try land in a way active , guarding fertility and sustainability environment , fulfill obligation finance to the country, to build the necessary means , as well as deliver return land to the country after his rights ends . If land No used in accordance with objective giving right or neglected , government can do evaluation and taking action administrative in accordance provision regulation legislation .

HGU is rights limited by a term time certain . The end of HGU can happen Because term time expired , canceled by authorized official , released in a way voluntary by the holder rights , revoked For interest general , established as land abandoned , the land destroyed , or holder right No Again fulfil condition as HGU subject . When the HGU ends , the relationship law between holder rights and land also in principle ends , except there is decision

extension or update legitimate rights . However , the end of the HGU does not necessarily cause land the become owned by the community that has occupy or work on it .

Former HGU land is the previous land burdened with HGU, but right the has expired , cancelled , released , or No extended and updated . After the HGU expires , the land in principle return is at in state control . State control is not means that the country becomes owner land in understanding civil law , but the state has authority public For arrange , determine allocation , providing rights , supervise use , and determine parties who can utilise land said . Therefore that , the land former HGU not can considered as land free that can occupied or shared in a way unilaterally by society .

Determination use land former HGU must done through the administrative process land . The process covering inventory , identification , measurement , inspection history land , verification mastery physical , research to claim society , adjustment with spatial planning , and publishing decision by the authorized official . Former HGU land can given return to used holder right through HGU renewal , granted to party others , utilized For interest general , made object reform agrarian , allocated to society that fulfills conditions , or used as land state reserves .

In practice , mastery land former HGU by the community can motivated by various reasons . Some people base his mastery of relationships historical Because consider that land the is land customs , land customary land inheritance , or land the work that has been done they master before given as HGU. Some of the community control land based on letter information , permission cultivation , policy government regions , or redistribution programs land . There are also people who enter land Because company No Again active try land , the HGU period is considered has ends , or land viewed has abandoned .

Connection historical public with land must proven through documents , maps , testimonies , letters description , history possession , and other relevant evidence . Claims based on connection customs or mastery hereditary No can accepted only based on statement unilaterally . Likewise , the letter issued by the head of village or officials local No always can made into base ownership if officials the No own authority For give right on state land . Legitimacy every document must tested based on authority publisher , procedure publication , and suitability with land data .

Mastery land former HGU by the community can also happen without base valid permission . In condition Thus , society enter , cultivate , build , or take results land without agreement from the authorities . Form mastery kind of this is the most potential cause accountability criminal if done with intentionally , without rights , and fulfill formulation offense certain . However , the determination criminal still must notice background behind mastery , purpose use land , area land , duration mastery , existence claim historical , as well as There is or whether or not other actions such as violence , forgery , destruction , or sale land .

Mastery land in a way organized For get profit economy need differentiated from control by farmers small For fulfil need live . In a number of case , control land done by individuals or the group that organizes society , share land , selling plot , rent land , or publish documents that are not valid . Act the can involving various action criminal , such as fraud , forgery letters , embezzlement , threats , destruction , or even action criminal corruption if involving abuse authority by officials .

Aspect criminal in encroachment land former HGU not only related with usage land without permission . Conflict land can accompanied by with forgery document land , construction letter information fake , manipulation sign hands , changes land area and boundaries , as well as use known documents No true . Forgery document done For create as if perpetrator have right or authority on land . If document the used For control , sell , rent , or divert land to party otherwise , then actions the can cause accountability criminal .

Fraud can happen when somebody sell or divert land former HGU as if land the is his . Deeds fraud in general marked with use of false names , positions fake , fraudulent trickery , or series lie For convincing other parties to hand over money or do something action certain . In case land former HGU, parties who do not own right can offer land to society , making map plot , publish letter mastery , and acceptance payment . If element the proven , then perpetrator can asked accountability criminal let go from land status disputes .

Conflict land can also cause action criminal destruction . Destruction can in the form of destruction plants , fences , buildings , vehicles , tools weight , board prohibition , office , facilities plantations , or boundary mark . Destruction is action criminal alone so that the proof No only depends on the status of the land , but also on deeds concrete perpetrator , intention For damage , and the losses incurred . Likewise , the action move or remove boundary markers can blurring the boundaries of the field land and disrupt the administrative process land .

Action criminal violence and threats can also be happen in the process of mastery or emptying land . Use violence , beatings , intimidation , threats , or coercion For control land and chase away other parties can cause accountability standing criminal law alone . Dispute land No can made into reason For justify action violence . On

the other hand, the authorities enforcer the law must also act in a way proportionally so that the emptying process land No cause violation to rights public.

Retrieval results plantation without rights can also be categorized as action criminal if fulfil element take the whole thing or part belonging to someone else with Meaning For owned in a way oppose law. In context land former HGU, determination ownership results plantation must checked in a way careful. If plant planted and maintained by the community, the status of the results can different with plants which are asset company. Therefore that, proof to ownership plants, time planting, those who care for it, and the status of the land become part important in case the.

Land grabbing can also be carried out collectively, with different roles being assigned. One party orders the act, organizes the crowd, provides funding, prepares documents, guards the location, transfers the land, or otherwise profits from the seizure. In criminal law, responsibility can be imposed not only on the person directly committing the act, but also on those who order, participate in, instigate, or assist in the commission of the crime. Although Thus, accountability criminal still is individual so that each person's role must be proven in a way clear.

Error is base from accountability criminal law. The principle of not There is criminal without error confirm that somebody No can convicted only Because something consequence has happened. It must be proven that perpetrator own intentional or negligence. In case encroachment land, intentional can seen if perpetrator know that himself No have rights, have accept warning, knowing existence decision government or decision court, but still control land. However, the existence of reprimand No always Enough For prove intentional Because perpetrator can believe that himself have right based on history possession, inheritance, or letter certain.

Belief perpetrator to right on land need tested in a way objective. If belief the based on evidence that can be accountable, then matter That can influence evaluation to error. On the other hand, if perpetrator know that documents used No legitimate or on purpose create document fake, then reason belief to right No can accepted. Therefore that, investigator must research knowledge, will, purpose, and action perpetrator before set accountability criminal.

Agrarian conflict is a clash of interests regarding the control, ownership, use, and exploitation of agrarian resources. This conflict can involve communities, companies, governments, indigenous groups, farmers, or other parties with differing claims to land. Conflicts over former HGU (Cultural Land Use) land are typically caused by unclear boundaries, the expiration of the HGU, delays in determining land status, physical control by communities, claims of historical rights, unequal land ownership, differences in data between agencies, and demands for redistribution.

Agrarian conflicts are not always synonymous with criminal acts. Conflicts indicate a conflict of interests, while criminal acts are actions that meet the criteria for a crime. Therefore, the existence of a conflict cannot automatically be used as a basis for arrest, detention, or criminal prosecution. Law enforcement must first determine whether the problem is an administrative dispute, a civil dispute, a social conflict, or whether it truly meets the elements of a criminal act.

The distinction between administrative, civil, and criminal law is crucial in cases involving former HGU land. Issues concerning certificate validity, rights extension processes, land boundaries, official authority, and state land designation are all issues in land administration. Disputes regarding losses, control, agreements, or ownership can be resolved through civil mechanisms. Meanwhile, criminal law is used when concrete actions meet the elements of a crime, such as forgery, fraud, destruction, violence, or unauthorized use of land.

Agrarian reform is one of the approaches that can used in settlement conflict land former HGU. Agrarian reform aim organize return structure control, ownership, use and utilization land to be more fair. Former HGU land can become source object reform agrarian if has determined by the government and meets condition certain. Communities that have long worked on land can considered as candidate recipient, but mastery physique No in a way automatic make they as holder right.

Determination land former HGU as object reform agrarian requires a verification process regarding land status, boundaries, spatial planning, control society and interests other parties. The government must also determine subject recipient in a way transparent for redistribution No controlled by parties who have capital or network political approach reform agrarian important Because part conflict land former HGU sourced from inequality mastery land and needs public to source livelihood.

Criminal law in case land should placed as effort final or *ultimate remedium*. Principle This based on considerations that law criminal have serious consequences in the form of restrictions freedom, stigma, and loss social for perpetrator. If problem can completed through mediation, verification administration, measurement

repeat , giving rights , lawsuits civil , or settlement of state administration , then use criminal should No made into choice First .

Although Thus , the principle *ultimate Remedium* No means that law criminal No can implemented in conflict land . Criminal law still required if there is action violence , threats , forgery , fraud , destruction , control organized , or sale land in a way illegal . Implementation criminal must based on the clarity of the object's status land , fulfillment all over element action crime , wrongdoing actors and principles proportionality .

Certainty theory law used in study This For analyze clarity of HGU status, land status after the HGU ends , the position used HGU holder , position society , as well as authority government in arrange land said . Certainty law want clear , consistent , enforceable rules predicted , and implemented in a way fair . In field land , certainty law covering certainty about subject rights , objects land , type rights , area , boundaries, location , term time , and usage land .

Certainty law to land former HGU becomes base important in determine There is or whether or not action criminal . If the land status Still in the process of completion or there is mutually exclusive data contradictory , then enforcement criminal must done in a way be careful . Unclear land status can cause error in determine the entitled party , the victim, and perpetrator .

The theory of justice is also used For evaluate whether implementation law to public has done in a way proportional . Justice in case land No only related with protection to certificate or investment , but also concerns protection to communities that have connection historical and dependency economy to land . Justice must given to all over parties , whether state, company , or public .

Justice for holder right means existence protection to activity legitimate business . Justice for public means existence guarantee to source livelihood , rights For heard , and opportunity get access land legally . Meanwhile that , justice for the country means land used in accordance with allocation and providing benefit for welfare society . Therefore that , the solution conflict No may only side with formal certainty , but must also consider condition social and economic .

The theory of utility law used For see effectiveness settlement conflict land former HGU. The law must capable give order , certainty , welfare , and sustainable settlement . Criminalization to public Not yet Of course finish conflict if the land status still No clear . On the contrary , completion administratively also not will effective if there is forgery documents , violence , or mastery land in a way commercial by group certain .

Based on study previous research about land former HGU in general more Lots discuss consequence law expiry of HGU, dispute between society and companies , reform agrarian , as well as protection public cultivator . Research about encroachment land generally discuss usage land without permission , proof ownership and accountability criminal . However , not yet Lots integrated research law agrarian and legal criminal in analyze encroachment land former HGU, especially in the Regency Asahan , North Sumatra.

The gap the show the need studies that are not only focus on action public in control land , but also examine the HGU status, as a result law the end rights , authority government , basis claim society , elements oppose law , error , and form accountability criminal research This place legal status land as point beginning before determine existence action criminal .

The framework for this research begins with determining the status of the HGU (UU Land Title). If the HGU is still valid, the HGU holder has the legal basis to use and control the land in accordance with the rights granting decision. If the community enters or controls the land without permission, this action can be analyzed under applicable criminal provisions. However, if the HGU has expired, it must be examined whether there has been an extension, renewal, release, cancellation, or other decision regarding the land.

Once the land status has been determined, the next step is to analyze the legal standing of the parties, the form of community ownership, the basis for the claim, the intended use of the land, and the actions taken. Furthermore, an analysis is conducted to determine whether the act fulfills the elements of a criminal offense, is unlawful, was committed with error, and is accountable to the perpetrator. If the elements of a criminal offense are not met, resolution must be directed through land administration mechanisms, civil litigation, mediation, or agrarian reform.

Thus, determining whether a crime exists in the control of former HGU land must be conducted comprehensively and not solely based on physical control. Clarity of the land's status, the parties' positions, the basis for control, the element of intent, and the nature of the act are key factors in determining whether a community's actions can be categorized as land grabbing or part of an agrarian conflict that must be resolved through other legal mechanisms.

RESEARCH METHODS

This study employs an empirical juridical legal research method with a statutory, conceptual, and case-based approach. The juridical approach is used to examine the legal norms governing criminal acts of land grabbing, Land Use Rights (HGU), the status of land formerly under HGU, and criminal liability for those who control land without rights. Meanwhile, an empirical approach is used to determine the application of these legal provisions in the practice of land control over former HGU by the community in Asahan Regency, North Sumatra.

Study This nature descriptive analytical. Descriptive nature used For describe condition related laws and facts with mastery land former HGU by the community, legal status land, forms actions carried out, as well response government and officials enforcer law. Analytical nature used For evaluate whether actions public in to control, occupy, cultivate, or utilise land former HGU has fulfil elements action criminal based on provision applicable law.

The research location was determined to be Asahan Regency, North Sumatra. The location was chosen based on the ongoing land ownership issues surrounding former HGU (HGU) concessions, which involve communities, plantation companies, local governments, land agencies, and law enforcement officials. Asahan Regency also boasts extensive plantation areas, potentially leading to land ownership conflicts after the HGU expires.

The data used in this study consisted of primary and secondary data. Primary data were obtained directly from the field through interviews with parties knowledgeable about and involved in the former HGU land issue. Research informants included officials from the Asahan Regency Land Office, local government officials, police officers, prosecutors, sub-district or village governments, community leaders, tenants, and company representatives or former HGU holders. Informants were selected using a purposive sampling technique, selecting informants based on their knowledge, authority, experience, and involvement in the issues being studied.

Interviews were conducted semi-structured using an interview guide. This technique allowed researchers to maintain a focus on questions while allowing informants to elaborate on facts, experiences, and perspectives. Questions covered the status of former HGU land, the history of land ownership, the basis for community claims, forms of land use, conflict resolution processes, criminal reports, proving elements of criminal acts, and obstacles encountered in resolving cases.

In addition to interviews, primary data was also obtained through observations of the land under community control. Observations were conducted to determine the physical condition of the land, forms of land ownership and use, the presence of buildings or plants, boundary markers, community activities, and the social conditions surrounding the site. The results of these observations were used to supplement and verify the accuracy of the information obtained through interviews and documents.

Secondary data were obtained through literature review and document review. Secondary data consist of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation in Lieu of Law Number 51 of 1960 concerning the Prohibition of Land Use Without Permission from the Authorized Person or Their Authorization, Law Number 1 of 2023 concerning the Criminal Code, Government Regulation Number 18 of 2021, regulations concerning land registration and determination of land rights, as well as other regulations related to HGU, plantations, agrarian conflicts, and criminal law enforcement.

Primary legal materials also include HGU certificates, HGU granting decisions, rights extension or renewal documents, land plot maps, measurement letters, land inventory documents, mediation minutes, warning letters, police reports, case files, and court decisions, if available. These documents are used to verify the validity period of the HGU, the boundaries and area of the land, the parties' positions, and any legal proceedings that have been undertaken.

Secondary legal materials include books on criminal law and agrarian law, scientific journal articles, research results, theses, dissertations, expert opinions, and publications discussing land grabbing, agrarian conflicts, former HGU land, criminal liability, and agrarian reform. tertiary in the form of dictionary law, encyclopedia, index regulations, and other sources that provide explanation to terms and concepts used in study.

Data collection was carried out through studies literature, studies documents, interviews, and observations. Literature study done with explore and examine regulation legislation, theory law, and results study previous. Document study done to document land and documents enforcement related laws with object research. Interview used For get information about implementation law, whereas observation used For get description factual about condition mastery land.

Data validity was tested using source and method triangulation techniques. Source triangulation was conducted by comparing information obtained from the community, local government, land agencies, companies, and law enforcement officials. Method triangulation was conducted by comparing the results of interviews,

observations, land documents, and statutory provisions. These techniques were used to reduce subjectivity and ensure that research conclusions were based on reliable data.

The obtained data was analyzed qualitatively. The analysis was conducted through the stages of data collection, data reduction, data presentation, interpretation, and conclusion drawing. Data reduction was carried out by selecting information relevant to the research focus, particularly regarding HGU status, land status after HGU expiration, forms of community control, elements of criminal acts, and criminal liability. The data were then grouped based on research themes and analyzed by linking empirical facts with legal norms and the theories used.

Analysis to action criminal done with method interpretation law and analysis element crime. Every actions public moreover formerly identified based on form, method, purpose, and consequences. Actions the furthermore tested based on element objective and subjective from provision relevant criminal law. Analysis was also conducted to characteristic oppose law, intent or negligence, ability responsible responsibility, inclusion, and possibility existence reason justifier or reason forgiving.

Study This put determination of legal status land as stage beginning in analysis criminal investigation done regarding the validity period of HGU, the decision giving rights, extension or update rights, release, cancellation, and land status after the HGU ends. After the land status known, research analyze Who the party that has authority or legitimate rights, whether public own permission or base mastery, and whether actions taken can categorized as actions without right.

Analysis results No only used For determine There is or whether or not action criminal, but also for differentiate between dispute administration land disputes civil, conflict agrarian, and action criminal. Differentiation the important Because No every mastery land former HGU can direct completed through mechanism criminal. If problem more dominant related with unclear land status, overlapping overlap documents, or demands redistribution, then settlement administrative, civil, mediation, or reform agrarian can more appropriate used.

Research conclusion withdrawn in a way inductive and deductive reasoning deductive used For applying norms and theories law to facts found, whereas reasoning inductive used For formulate pattern general based on various events and field data. Through method said, research expected produce capable analysis explain aspects action criminal in mastery land former HGU by the community in the Regency Sharpening as well as give recommendation guaranteed solution certainty law, justice, and utility.

RESULTS AND DISCUSSION

Research result show that problem mastery land former Right to Cultivate by the community in the Regency Sharpening No can understood solely as action criminal encroachment land. Problems the is problem law of a legal nature complex Because involving law agrarian law administration land, law civil law criminal, as well as condition social and economic society. Determination There is or whether or not action criminal must preceded with inspection regarding the legal status of HGU, history mastery land, position the law of the parties, as well as form actions carried out by the above community land the.

Regency Sharpening is one of the areas in North Sumatra that have area plantation Enough wide. Existence plantation the related close with granting of HGU to company plantation or business entity certain. In development, some HGU have been expired, no extended, still in the process of updating, or experience problem administration and control physical condition the Then open room occurrence claims and control land by the community.

Mastery land former HGU by the general public based on several reasons. Some people consider that land the is the previous land Once controlled by parents or ancestors they before given to company plantations. Some others base claims on control and cultivation in quite a long time. There are also people who think that the end term HGU time causes land the can direct controlled and utilized by the community around.

View that land for which HGU is granted has end in a way automatic can controlled by the community No fully in accordance with provision law land. The end of HGU is indeed end connection law between holder right with land if No done extension or renewal. However, the land is essentially returned to state control. The state, through land agencies, has the authority to determine the land's designation, use, and who may acquire rights to the land.

Thus, former HGU land is not free land that can be occupied, divided, or transferred unilaterally. Communities who physically control the land do not necessarily acquire legal rights. Physical control can be one of the factors considered in the land administration process, but it does not automatically create land rights. Granting or confession right still need decision from officials authorized land.

On the other hand, the former HGU holders also do not can continuously consider himself as the party that is fully entitled on land after the HGU validity period ends. If No there is extension, renewal, or base other valid laws

, former HGU holders do not Again have position the same law like when HGU is still applies . Therefore that , legal status land must checked in a way objective based on certificate , decision giving rights , letters measure , map field , document extension or updates , as well as information official from the Land Office .

Findings the show that clarity of legal status land is element main in determine existence action criminal encroachment land . If the land status Not yet confirmed , then determination who is called as the entitled party also becomes No clear . Ambiguity the will influence proof element without permission , without rights and nature oppose law from actions public .

Mastery land by the community can done in various shape . The shape found or common happen covering enter and occupy land , opening agricultural areas , planting plants , building place live , establish building while , harvesting results plantation , installing boundary mark , dividing field land , as well as divert mastery to other parties . Each form actions the own consequence different and different laws can treated in a way uniform .

The society that only work on land For fulfil need life have character different actions with the controlling party land in scale wide For traded . Likewise , the people who control land based on claim historical different with the party entering land after know that land the currently disputed . Differences background background , purpose , and method mastery must become consideration in determine whether settlement done through mechanism administration , civil , mediation , reform agrarian , or law criminal .

In perspective law criminal , term encroachment the land basically is terms used in a way general For describe mastery land without permission or without rights . However , in the enforcement process law , apparatus No Enough only use term encroachment . Authorities must determine provision relevant and proving criminal all over element formulated offense in regulation legislation .

One of frequent provisions used related with mastery land without permission is Regulation Government Replacement Constitution Number 51 of 1960 concerning Prohibition Land Use Without Authorized Permit or His Power . Provisions the forbid use or usage land without permission authorized party . Usage land can in the form of occupy , cultivate , use , or take benefit from land in a way direct and No direct .

Implementation provision the to land former HGU not can done in a way automatic . Elements entitled party or his power must proven moreover first . If the HGU is still applies , HGU holders can categorized as the party that has connection law with land . However , if the HGU has ended and not yet extended or updated , position used HGU holders must checked return .

In condition land has return is at in state control , authorized parties give permission basically is government through agency land . Former HGU holders do not can so just use certificate that has been end as the only one base For state public do encroachment . On the other hand , the community also does not can use the end of HGU as reason For justify mastery in a way unilateral .

Element without permission must proven through inspection to There is or whether or not decision , letter permission , policy government , letter cultivation , redistribution programs , or form other approvals issued by authorized officials . Letters that only published by the device village Not yet Of course become base legitimate possession if officials the No own authority give right on state land .

In addition to use land without permission , control land former HGU can related with action other crimes . One of them potential forms happen is forgery letter or document land . Forgery can done through manufacturing letter information mastery land that is not true , forgery sign hands , changes land area and boundaries , use document owned by party other , or manufacturing history land that is not in accordance with condition Actually .

Deeds the become action criminal if perpetrator with on purpose make or use letter false as if letter the true and can cause rights , obligations , or loss for other parties . In case land former HGU, documents false often used For convincing public that perpetrator entitled share , sell , or divert land . If document the used For get payment or profit , action can also be associated with action criminal fraud .

Fraud can happen when somebody offer or sell field land former HGU as if land the is his . The perpetrator can use letter description , map plot , sign accept , or statement mastery For convincing buyer . If perpetrator know that himself No own right but still do transaction with series lie or deception trickery , element action criminal fraud can assessed fulfilled .

Findings research also shows that mastery land in a way organized need differentiated from action public cultivator usual . In mastery organized , usually there is parties involved as driver , coordinator , fund provider , maker document , divider land , or the receiving party payment . Accountability criminal to actions kind of This No only directed to society that is physique be on top land , but also to the party who plans , orders do , help , or get profit .

Criminal liability must be determined individually. A person's mere participation in a community group is not sufficient grounds for criminal prosecution. Law enforcement must prove each party's actual role, the nature of their actions, knowledge of the land's status, the purpose of the control, and the profits obtained. An approach that equates all members of society as perpetrators can lead to injustice and contradicts the principle of criminal liability based on fault.

Conflict land former HGU can also be cause action criminal destruction . Destruction can in the form of logging plants , destruction fence , burning building , destruction tool plantations , disappearance board announcement , or transfer boundary mark . Action destruction must analyzed in a way separated from dispute land due to dispute status No remove accountability on deliberate damage caused .

Taking plantation crops can also become a criminal offense if done without authorization. However, to determine theft, proof of ownership of the crops or crops is necessary. If the crops were planted by a company before the HGU expired, the status of the crops must be verified based on asset documents, agreements, and provisions regarding land transfer. If the crops were planted by the community after they took control of the land, determining ownership of the crops can be more complex.

Violence and threats are forms of criminal acts that can arise in land conflicts. Land acquisition or eviction is sometimes carried out through intimidation, beatings, threats, or the mobilization of certain groups . land No can used as reason For justify violence . Every action violence must processed based on provision applicable criminal law , both carried out by the community , parties companies , as well as other parties .

In evaluate accountability criminal , elements error hold role important . Someone only can convicted if his actions done with on purpose or Because negligence as determined in formulation crime . In mastery land , intentional can known from knowledge perpetrator that himself No own right or permission , existence letter warning , results mediation , decision government , decision court , or sign the prohibition that has been installed .

However , no all a stable society be on top land after accept reprimand can direct considered own intention evil . Some people Possible believe that they own right based on history possession , inheritance , letter cultivation , or promise redistribution . Belief the must checked based on evidence held . If belief have reasonable basis , thing the can influence proof element intention and nature oppose law .

On the other hand , if public or party certain has know that documents used fake , no have permission , and remain sell or divert land , then intentional more easy proven . The condition the show that objective mastery No Again solely maintain source livelihood , but get profit through known acts No valid .

Research result show that one of obstacle main in enforcement law to mastery land former HGU is data and document asynchronization land . Data regarding wide land , plot boundaries , HGU validity period, extension process , ownership society and spatial planning can different between agency . Asynchrony the make things difficult apparatus enforcer law For determine the status of the object and the party who owns it right .

Obstacle other is length of administrative process land status determination after the HGU ends . During Not yet there is clear decision , land often is at in condition uncontrolled mastery Certainly . Former HGU holders still maintain claim , whereas public consider land has return to the country and can utilized . Emptiness or delay administration the be one of factors that increase conflict .

Lack of understanding public to law land also becomes influencing factors mastery land . Some of the community consider that mastery physique in time certain automatic give birth to right belongs to . There are also those who think letter information from head village own equal power with This understanding needs to be clarified through legal outreach and land administration assistance .

On the other hand, an approach that places too much emphasis on criminal enforcement can also exacerbate conflict. The use of criminal law before land status is confirmed has the potential to criminalize the community that cultivates it. Criminalization can occur if the community is identified as a perpetrator solely based on a report from a former HGU holder, without a thorough examination of the validity period of the land rights and status.

Law enforcement must still be carried out if there is evidence of a criminal act, but the process must be based on an objective examination. Investigators should seek testimony from land experts, obtain official documents from the Land Office, conduct site inspections, and examine the land's history. Determining a suspect should not be based solely on physical possession and a report from one party.

Issues regarding land ownership over former HGU (right-to-use) rights must also be differentiated into administrative disputes, civil disputes, and criminal offenses. Issues regarding the validity of HGU extensions, decisions regarding granting rights, land boundaries, or the authority of officials fall within the realm of land administration. Issues regarding ownership, compensation, agreements, or control can become civil disputes. Criminal law applies when concrete actions meet the definition of a crime.

This distinction is crucial to prevent criminal law from being used as a tool to win land disputes. Criminal reports should not be used to pressure other parties to relinquish claims or abandon land before the rights status is verified. Criminal law should be used to protect legal interests, not as an instrument to strengthen the position of one party in a land conflict.

Principle law criminal as *ultimate Remedium* relevant used in settlement land former HGU. If conflict can completed through verification administration, mediation, measurement repeat, giving rights, redistribution land, or lawsuit civil, then settlement non-criminal need prioritized. Approach criminal used if other mechanisms do not adequate or there is actions that are real endanger interest law.

Implementation principle *ultimate Remedium* No means delete accountability criminal act forgery, fraud, violence, threats, destruction, or sale illegal still must processed in a way law. However, the community that works on land For fulfil need live and have claims that can be tested should No treated The same with parties who are organized control and trade land.

Approach settlement land former HGU required done in a way Integrated Land Office must ensure the status of rights, boundaries, area and history land. Government area need facilitate data collection community and mediation. Apparatus enforcer law on duty handle actions proven criminal offense, whereas company or used HGU holders must give transparent documents about base his mastery.

Society must also involved in the process of being resolved. Engagement public required For know history mastery, reason occupy land, area the land used, as well as dependence economy to land. Approach participatory can reduce tension and prevent settlement unilateral.

Agrarian reform can be one of alternative settlement if land former HGU fulfills condition as object arrangement assets. Cultivator community can considered as candidate recipient based on established criteria. However, redistribution must done in a way transparent so that the soil No controlled by speculators, parties capitalized, or groups that do not fulfil condition.

In perspective certainty law, settlement land former HGU requires fast and clear status determination. Uncertainty open room for mastery unilateral, conflict, and use documents that are not legitimate. Government must quick determine whether land will given return to used HGU holders, allocated to party other, used For interest general, or set as object reform agrarian.

In perspective justice, settlement must consider interest all over parties. Companies that are still own legitimate rights entitled get protection to activity his business. The community that has connection historical or hang living on the land also has the right get a fair process. The state is obliged ensure land utilized For as much as possible prosperity of the people.

In perspective benefit, solution No may stop at punishment. Punishment to part public No will finish problem if the land status still No clear. Solution must produce certainty mastery, reduce conflict, increasing productivity land, and provide benefit social as well as economy for public.

Based on overall discussion, aspects criminal in encroachment land former HGU by the community in the Regency Asahan is very dependent on legal status land and form the act carried out. Mastery physique just Not yet Enough For prove action criminal. There must be provision crime committed, nature oppose law, error, ability responsible answer, and evidence that connects perpetrator with actions the.

Mastery land can categorized as action criminal if done without rights and without valid permission, accompanied by intentional, and fulfil element crime. Responsibility criminal the more strong if mastery accompanied by forgery, fraud, destruction, violence, threats, taking results plantations, or sale land in a way illegal. On the other hand, if problem sourced from unclear rights status, overlapping overlap claim, or demands redistribution, then mechanism administration, civil, mediation, and reform agrarian must more formerly prioritized.

Therefore that, enforcement law to mastery land former HGU in the Regency Sharpening must done in a way careful, objective, and proportional. Land status must confirmed before the criminal process done. Every perpetrator must assessed based on their respective roles and mistakes. Approach criminal must combined with settlement agrarian to be able give certainty law, justice, and utility for countries, companies, and public.

CONCLUSION

Based on results research and discussion, can concluded that mastery land former Right to Cultivate by the community in the Regency Asahan, North Sumatra, no can necessarily qualified as action criminal encroachment land. Determination existence action criminal must started with certainty regarding legal status land, HGU validity period, existence extension or update rights, position used HGU holders, as well as authority government in set use

land after the HGU ends . Land for which the HGU has ends in principle return is at in state control , so that No automatic become owned by used HGU holders and the community that has master it in a way physique .

Aspect criminal can appear if mastery land done without rights and without valid permit as well as fulfil elements action prescribed criminal penalties in regulation legislation . Form potential actions cause accountability criminal covering usage land without permit , forgery document land , fraud in diversion land , destruction plant or buildings , threats , violence , displacement boundary mark , taking results plantations , and control land in a way organized For get profit economy . However , accountability criminal must still based on evidence mistakes and individual roles of each perpetrator .

research results also show that conflict land former HGU in the Regency Sharpening No solely is problem criminal , but rather related with ambiguity administration land , overlapping overlap claim , control physical by society , relationships historical with land , inequality mastery land , and demands redistribution . Therefore that , is necessary strict separation between dispute administration land disputes civil , conflict agrarian , and action criminal law criminal No used in a way premature For finish the problem that is basically Still need determination of land status .

Use law criminal in settlement conflict land former HGU must placed as effort final or *ultimate remedium* . Settlement through land status verification , measurement rework , mediation , arrangement administration , lawsuit civil law and reform agrarian need prioritized if problem main sourced from ambiguity rights and control . Although thus , against proven actions accompanied by forgery , fraud , violence , destruction , or mastery commercial in a way oppose law , enforcement criminal still must implemented in a way firm and proportional .

With Thus , the solution encroachment land former HGU in the Regency Sharpening need coordination between the Land Office , the government area , apparatus enforcer law , company or used HGU holders and the community . Integrated solutions required For ensure legal status land , prevent criminalization society , take action the real perpetrator fulfil element criminal , as well as realize certainty law , justice , and utility in management land former HGU.

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