

A Juridical Review of the Execution Process in Land Dispute Settlement in Indonesia (A Contextual Study of Polewali Mandar Regency)

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Abstract: Execution is a crucial stage in civil law enforcement, particularly in land dispute resolution. Without execution, a court ruling holds only declarative legal value and lacks real binding force. This article aims to analyze the juridical review of the execution process in land dispute resolution in Indonesia, including the obstacles often encountered in the field, as observed in various regions in Indonesia, particularly in Polewali Mandar Regency. This study employs a normative juridical method with a legislative approach and case studies of court decisions. The research findings show that land dispute executions are frequently hindered by non-juridical factors such as third-party resistance, social conflicts, and political intervention. From a legal perspective, provisions in the HIR, RBg, and the 1960 UUPA serve as the normative foundation for execution. In conclusion, the execution process requires strengthened regulations and synergy between the judiciary, law enforcement agencies, and local governments to ensure legal certainty.

Keywords: execution, land disputes, juridical review, legal certainty

1. Introduction

Land disputes are among the most frequent legal issues in Indonesia. The complexity of such disputes is influenced by the strategic value of land as an economic, social, and even political resource. Land is not only economically valuable as a factor of production but also holds historical and cultural significance for society. Consequently, any conflict over land often generates broad impacts, both at the individual and community levels. Legal certainty in land disputes only holds meaning when court decisions that have obtained *inkracht van gewijsde* can be effectively executed. Without execution, a decision merely becomes a declarative norm without binding force. This aligns with Radbruch's view, which emphasizes that legal certainty is one of the primary objectives of law, alongside justice and expediency. Accordingly, execution serves as an essential instrument in realizing legal certainty in land disputes.

However, in practice, the execution phase often encounters various obstacles in many regions, including Polewali Mandar Regency. These obstacles may arise in juridical forms, such as third-party opposition (*derden verzet*), extraordinary legal remedies (judicial review), or issues of overlapping land rights. In addition, there are also non-juridical barriers, including social resistance, claims of customary land, and security escalations that frequently lead to clashes in the field. A court decision in a land dispute does not automatically resolve the problem if it is not followed by effective execution. Two execution cases in Polewali Mandar serve as concrete examples of how a process intended to ensure legal certainty may instead generate new conflicts. For instance, the execution of a land dispute in Lapeo Village, Campalagian Subdistrict, triggered tensions and resistance from the local community, who claimed the land as customary land. Likewise, the execution carried out in Palludai Hamlet, Katumbangan Lemo Village, Campalagian Subdistrict, Polewali Mandar Regency, ended in chaos. These two cases clearly illustrate the gap between normative legal certainty and empirical legal certainty.

Based on the description above, it is important to examine the juridical review of the execution process in the settlement of land disputes in Indonesia, as well as the obstacles that frequently arise in practice, with particular attention to those occurring in Polewali Mandar Regency. This study is expected to provide a deeper understanding of how executions should be carried out so that the objectives of law namely certainty, justice, and expediency can be achieved.

2. Method

This research employs a normative juridical method with several approaches. The statutory approach examines the *Herzien Inlandsch Reglement* (HIR), *Rechtsreglement voor de Buitengewesten* (RBg), and the Basic Agrarian Law of 1960 (UUPA). The case approach analyzes court decisions related to land disputes that faced execution obstacles, such as those in Polewali Mandar Regency. The conceptual approach compares the theory of legal certainty with the practical implementation of execution.

3. Results and Discussion

3.1 Legal Basis and Obstacles in the Execution of Land Disputes

The procedure for executing court decisions in civil cases is an essential step in ensuring compliance with judgments that have obtained permanent legal force. In line with this, the execution process of land disputes in Indonesia rests on a solid legal foundation, which is regulated by several statutory provisions that serve as the primary sources of reference for execution in Indonesia, namely:

First, the *Rechtsreglement voor de Buitengewesten* (RBg) provides detailed regulations on the general procedure of execution, as stipulated in Articles 206 to 240 of the RBg. In addition, Articles 258 and 259 of the RBg specifically address the execution of judgments ordering the defendant to perform a certain act, such as vacating land.

Other civil procedural laws, such as the *Reglement op de Rechtsvordering* (Rv), also serve as important references. Article 1033 of the Rv specifically regulates *real execution*, which is often applied in land dispute cases where the court's decision orders the delivery or vacating of the disputed object. This ensures that the prevailing party can physically obtain their rightful entitlement. Moreover, the *Herziene Indonesisch Reglement* (HIR) also contains provisions concerning execution. Articles 195 and 225 of the HIR serve as guidelines for the courts in carrying out judgments. Although the HIR and the RBg share similarities, the coexistence of both regulations reinforces the legal framework for execution, particularly in different jurisdictions.

The Supreme Court Regulation of the Republic of Indonesia, Article 1 of Supreme Court Regulation No. 1 of 1976, stipulates that the Supreme Court may review or annul a judgment on the following grounds:

- a. When the judgment clearly demonstrates a judicial oversight or a manifest error.
- b. When a claim is granted that was not requested, or when more is granted than what was requested.
- c. When part of the claim has not been decided without providing reasons.
- d. When between the same parties, concerning the same matter and on the same grounds, contradictory judgments are issued by the same court or courts of the same level.
- e. When a judgment contains contradictory provisions within itself.
- f. When the judgment is based on deception or fraud by the opposing party discovered after the case was decided, or on witness testimony or documentary evidence that is subsequently declared false by a criminal court.
- g. When, after the case has been decided, decisive documentary evidence is found which, during the proceedings, could not be discovered.

It can therefore be concluded that even court decisions with permanent legal force may still be subject to extraordinary legal remedies, such as *derden verzet* or a petition for judicial review before the Supreme Court. In addition, Supreme Court Regulation Number 1 of 2019 regulates the implementation of case settlement in courts through electronic litigation (e-litigation or e-court). In relation to e-litigation, one of the provisions concerns applications for execution, issuance of execution orders, and *aanmaning* (warnings/summons), all of which may be conducted electronically.

The Supreme Court (MA) also plays a role through its Circular Letters. Supreme Court Circular Letter (SEMA) Number. 3 of 2000 and SEMA Number. 4 of 2001 provide technical guidelines concerning the enforcement of judgments that have not yet obtained permanent legal force, such as *uitvoerbaar bij voorraad* (provisional execution) and *provisories*. These circulars are essential to prevent abuse and to ensure prudence in executions that may potentially cause harm. Furthermore, Law Number. 48 of 2009 on Judicial Power also provides a normative foundation. Articles 54 and 55 of this law affirm that court decisions with permanent legal force must be executed, and all parties are

obliged to comply with them. This demonstrates that execution is not merely a technical process but a manifestation of the sovereignty of law.

The institutional aspect of execution is regulated in Article 33 paragraphs (3) and (4) of Law Number. 14 of 1970 in conjunction with Law Number. 4 of 2004. Paragraph (3) stipulates that the execution of civil judgments is carried out by the Registrar and Bailiff under the leadership of the Chief Judge of the District Court. Meanwhile, paragraph (4) underscores the importance of upholding the principles of humanity and justice during the execution process, serving as a reminder that law must remain conscientious.

Finally, the execution of land disputes cannot be separated from Law Number. 5 of 1960 on Basic Agrarian Principles (UUPA). As the national legal framework for land affairs, the UUPA provides the foundation regarding land rights and dispute resolution procedures, ensuring that every execution aligns with the prevailing agrarian principles in Indonesia.

3.2 Obstacles in the Implementation of Execution

The existence and independence of the judiciary in a country is essentially a manifestation of the enforcement of the rule of law as the nation's ideal, in which the role of the judiciary is of paramount importance and placed on equal footing with other state institutions. The execution of court decisions in civil cases is one of the issues most frequently raised by justice seekers. Execution is an integral part of the case-handling process and cannot be separated from the responsibility of the courts. Nevertheless, execution often faces challenges in practice due to various reasons, such as concerns over potential security disturbances if execution is forcibly carried out.

The enforcement of execution in civil law involves numerous procedural requirements that must be followed in accordance with the applicable statutory provisions. In practice, not a few cases at the stage of forced execution in Indonesia have been rejected by the community. In judicial practice, attempts to execute court decisions often encounter complications that burden the head of the district court as the official responsible for ordering civil executions. Nearly every planned execution tends to face unexpected new problems that arise suddenly.

The challenges and obstacles in carrying out forced executions in the field involve both legal (juridical) and non-legal (non-juridical) issues. Juridical problems include ambiguous or conflicting statutory provisions. The enforcement of execution is frequently hindered by extraordinary legal remedies, such as judicial review, which may delay execution. In addition, third-party opposition (*derden verzet*) is also common, in which parties not involved in the original dispute feel disadvantaged and file new lawsuits. Beyond juridical barriers, non-juridical obstacles also play a significant role. Non-juridical problems are related to the technical and procedural aspects of execution in court. These include situations where the object of execution is difficult to access or has been transferred to another party. Other non-juridical obstacles often arise from resistance by communities

occupying the disputed object, which may trigger unrest and social tension. Moreover, political intervention by interested parties can further delay or even cancel the execution.

Another factor is the limited capacity of security forces in safeguarding the execution process, which often requires the deployment of a large number of personnel. Insufficient coordination between the courts and security apparatus may render executions inefficient and vulnerable to conflict escalation. Therefore, thorough security preparation is very important. From an administrative perspective, obstacles frequently arise due to unclear land data. Overlapping land certificates have become a chronic issue that complicates the proof of ownership. This compels the courts and the National Land Agency (BPN) to conduct re-verification, which consumes considerable time and resources, even after a court decision has been issued.

3.3 Empirical Overview and Social Dynamics of Land Execution in Polewali Mandar Regency

Execution, as a legal action carried out by the court against the losing party in a case, constitutes a continuation of the procedural stages following the examination of the case. Thus, execution is nothing more than a continuous process within the overall framework of civil procedural law. It forms an inseparable part of the procedural order contained in the HIR or RBg. The postponement of court-ordered executions in Indonesia represents a complex issue, often involving various social, economic, and legal dynamics. Execution cases, such as those in Polewali Mandar Regency, West Sulawesi, provide clear empirical illustrations of these challenges. Two prominent cases in Campalagian District, namely in Palluddai Hamlet and Lapeo Village, demonstrate how the enforcement of court decisions may encounter strong resistance from local communities, particularly when sensitive issues such as claims over customary land are at stake.

One of the most striking cases is the execution in Palluddai Hamlet, Katumbangan Lemo Village, conducted by the Polewali District Court. This execution, which was only carried out on 13 July 2025, was the implementation of Decision No. 14/Pdt.G/1997/PN Pol, which had obtained permanent legal force for decades. The delay of approximately 25 years highlights the extreme difficulties faced in the execution process, particularly when confronted with complex social dynamics on the ground. The prolonged delay was not without reason. The execution, which involved the eviction of ten households, triggered significant social resistance and tensions. Residents who had occupied the land for many years felt aggrieved and opposed the execution. This situation was often exacerbated by the lack of effective communication between the court, security forces, and affected communities, ultimately escalating into conflict.

The height of this tension occurred in early July 2025, when an attempt to execute the land in Polewali Mandar was marred by riots. Reports indicated that several security personnel were injured as residents resisted the execution by throwing stones and Molotov cocktails, which subsequently led to the arrest of several individuals. This incident illustrates that execution, although grounded in a lawful court decision, cannot be

implemented without considering the security dimension and the inherent social risks. The unrest stands as tangible evidence that an approach relying solely on formal legal authority is often ineffective and may, in fact, produce more severe negative consequences.

Therefore, prior to the day of execution, it is crucial to conduct a comprehensive social risk assessment. Such an assessment must include an in-depth analysis of potential resistance, identification of key actors, and mapping of social dynamics in the execution site. Through this process, authorities may design more humanistic and preventive strategies aimed at minimizing the potential for conflict and violence. The second relevant case was the execution in Lapeo Village, Campalagian District, where the Polewali District Court executed a residential property on 22 May 2025 (Case No. 6/Pdt.Eks/2022/PN Pol). Although the scale of the execution was relatively smaller compared to the Palluddai case, the implementation still unfolded under heightened tension, underscoring that execution-related conflicts are not isolated incidents but represent a recurring pattern in the region.

A key factor complicating the dispute in Lapeo was the assertion of “customary land” (tanah adat) rights by the local community. Despite the binding nature of the court’s decision, this claim highlighted the tension between the state’s positive law and the customary legal system still recognized by the community. The affected residents demanded a legal process that was perceived as more equitable and transparent, one that could accommodate the acknowledgment of their traditional rights.

The assertion of customary land rights often serves as a critical flashpoint in execution disputes. For local communities, land is not merely an economic asset, but also a symbol of cultural identity and social belonging. Consequently, court decisions that disregard these claims are frequently perceived as unjust, thereby fueling resistance and collective opposition to the execution. The dynamics in Polewali Mandar reaffirm that the execution of court decisions cannot be viewed merely as a legal procedure. Execution must be accompanied by a sociological approach that takes into account the local context, including culture, value systems, and community structures. Active involvement of local governments, community leaders, and customary institutions may serve as a crucial key in seeking peaceful and sustainable solutions.

Overall, the cases in Polewali Mandar provide a rich empirical illustration of the complexities surrounding execution in Indonesia. Prolonged delays, community resistance, security escalation, and customary land claims are interrelated elements that shape the broader landscape of land dispute execution. Addressing these challenges requires systemic reform in the execution mechanism—one that not only upholds legal certainty but also recognizes and respects social realities and fundamental human rights.

3.3 The Gap Between Theory and Practice in Realizing Legal Certainty

The analysis of execution cases in Polewali Mandar underscores that effective mediation can serve as a crucial instrument to ease tensions and to seek peaceful solutions

acceptable to all parties, thereby positioning execution as the last resort. In several regions of Indonesia, the success of mediation in land disputes has demonstrated its capacity to prevent large-scale conflicts that could otherwise disrupt social stability.

Furthermore, there is a pressing need to strengthen the capacity of law enforcement officers and court bailiffs. Those involved in the execution process should receive specialized training in negotiation, conflict management, and a deeper understanding of the local socio-cultural context. With such competencies, they will be better equipped to perform their duties professionally without provoking further escalation. An execution process that runs smoothly not only guarantees legal certainty, but also safeguards social stability. Ultimately, the primary goal of any sound legal system is to deliver substantive justice that is consistent with humanitarian values and responsive to societal needs.

4. Conclusion

Execution represents the final stage of civil judicial proceedings, determining whether a court decision is effectively realized. Without execution, a judgment remains merely declaratory and fails to provide genuine legal certainty for the winning party. This aligns with Gustav Radbruch's theory of legal certainty and Sudikno Mertokusumo's view, both of which emphasize the importance of implementation as a guarantee of rights. Although the legal foundation for execution is clear, its implementation often encounters significant obstacles. The provisions on execution are regulated in various legal instruments, including the HIR, RBg, Rv, the 1960 Basic Agrarian Law (UUPA), the Judicial Authority Act, as well as Supreme Court Regulations (SEMA and Perma). Despite this strong normative framework, execution in practice frequently faces both juridical obstacles (such as *derden verzet*, judicial review, and overlapping land rights) and non-juridical obstacles (such as social resistance, customary land claims, and limitations of security apparatus). The cases in Polewali Mandar illustrate the gap between normative and empirical law. The execution of land disputes in Lapeo Village and Palluddai Hamlet, Campalagian District, demonstrates how legally binding court decisions can trigger new conflicts within society. Community resistance, customary land claims, and social tensions that escalated into riots highlight the discrepancy between normative legal certainty and social reality. Legal certainty cannot be achieved through formal procedures alone; the success of execution is strongly influenced by community acceptance and social legitimacy.

Therefore, positive law must be accompanied by a socially sensitive approach that takes into account cultural values, customary law, and social structures. Without such sensitivity, execution risks producing new injustices despite being legally valid. A comprehensive strategy and institutional synergy are required. Strategic efforts to strengthen execution include: (a) reinforcing execution regulations, particularly regarding customary land claims and third-party objections; (b) fostering synergy among courts, the National Land Agency (BPN), the police, and local governments through the formation of integrated execution teams; (c) adopting community-based approaches through mediation and dialogue to reduce resistance; and (d) enhancing the capacity of enforcement officers in conflict management and negotiation. Thus, execution in land disputes in Indonesia

particularly in Polewali Mandar regency requires not only normative legal certainty but also social legitimacy and institutional coordination, so that the objectives of law certainty, justice, and utility can be achieved in a balanced manner.

5. Acknowledgments (Optional)

Based on the juridical review of the execution process in resolving land disputes in Indonesia, with a case study in Polewali Mandar Regency, the author offers the following recommendations:

- a. Institutional Synergy. The courts, the National Land Agency (BPN), the police, and local governments should establish an integrated execution team to ensure that court decisions are implemented effectively. Such synergy is crucial to prevent horizontal conflicts and to guarantee protection for the legally entitled parties.
- b. Socio-Cultural Approaches in Execution. In cases such as those in Polewali Mandar, judicial and security officials should prioritize dialogue, consensus-building, and culturally grounded approaches before carrying out execution. This can reduce community resistance and prevent unrest that may lead to social instability.
- c. Strengthening the Role of Mediation. Prior to execution, mediation should be maximized by involving community leaders, customary leaders, and local government representatives. Effective mediation can serve as a peaceful solution, reducing reliance on the coercive power of the state.
- d. Legal Education for Communities. Local governments and universities—particularly faculties of law—should organize legal literacy programs on land law and execution procedures. Greater public understanding of the law will foster respect for court rulings and help mitigate prolonged conflicts.
- e. Capacity Building for Enforcement Officers. Court officials and police officers should receive specialized training in conflict management, negotiation, and community engagement. Such capacity building will ensure that execution is carried out not only in a legal-formal manner but also in a humane and socially responsive way.

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