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The Dialectic of Agrarian Justice: A Jurisprudential Analysis of Unlawful Acts in Land Disputes from the District Court to Judicial Review

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ABSTRACT

*Inconsistency in court decisions on agrarian disputes presents a crucial problem that tests the balance between formal legal certainty and substantive justice. This research aims to conduct an in-depth analysis of the application of the elements of an unlawful act and the dialectic of judicial reasoning (ratio decidendi). The analysis is conducted in the context of an ownership dispute over a 14,000 m² parcel of land in East Kutai. This case traversed four judicial tiers, from the District Court to the Judicial Review at the Supreme Court. Employing a normative legal research method through a case study approach, a comparative-qualitative analysis of each court decision is performed to dissect the legal logic underlying the dynamics of the contradictory verdicts. The findings indicate that the Supreme Court, in its role as the *judex juris*, ultimately affirmed the superiority of material truth. This truth, proven by actual and good-faith physical possession, was deemed superior to the legal formalism embodied in substantially flawed ownership documents. The substantive-justice-oriented court decision of First Instance was annulled at the formalistic Appeal level, only to be restored by the Supreme Court at the Cassation level and subsequently upheld in the Judicial Review stage. It is concluded that the final decision in this case not only provides concrete legal protection for the good-faith land possessor but also contributes significantly to jurisprudence as an important precedent that reinforces the judiciary's orientation toward achieving substantive justice in the resolution of agrarian disputes in Indonesia.*

Keywords: Land Disputes; Legal Certainty; Multi-Level Judicial Analysis; Substantive Justice; Unlawful Acts.

INTRODUCTION

Land holds a pivotal role in the constellation of social, economic, and legal life in Indonesia. Its position is not merely that of a commercial asset but also a living space, a source of livelihood, and a fundamental symbol of cultural identity (Syam & Muzakkir, 2022). According to Sari (2017) and Lestari (2020), Law Number 5 of 1960 was designed to affirm the social function of land, wherein its utilization must be directed toward the greatest prosperity of the people. However, as population growth and economic expansion have increased, pressure on land availability has intensified. This condition inherently creates a competitive arena that often culminates in ownership disputes (Zainuddin, 2022; Leonardo & Adriaman, 2025). The complexities inherent in an incompletely organized land administration system serve as a primary trigger, opening up space for overlapping claims and prolonged agrarian conflicts (Ramadhani, 2021; Sihombing & Widjojo, 2025).

Within the framework of a state under the rule of law, Law Number 5 of 1960 mandates nationwide land registration to provide legal certainty (Ramadhani, 2021). Ideally, a land title certificate issued through this process serves as strong, definitive proof of ownership (Nasution & Ramadhani, 2023). Nevertheless, in practice, this paradigm of formal legal certainty often clashes with realities on the ground (Putri & Silviana, 2022). Numerous land parcels still rely on non-certificated documents for proof of ownership, such as Land Information Letters, evidence of hereditary physical possession, or grant agreements, whose legal force is recognized only to a limited

extent (Oktaviani & Harjono, 2019; Fachriza et al., 2020; Ayudiatratri & Cahyono, 2022). Furthermore, even the existence of a certificate is not absolute; it can be challenged and nullified if it is found to contain administrative defects or obtained through unlawful means (Heryanti et al., 2024; Saragih et al., 2025). This dialectic between the strength of formal evidence and material truth lies at the heart of numerous land disputes in Indonesia.

When an individual's subjective right to land is violated, the primary legal remedy is a lawsuit for an unlawful act (*onrechtmatige daad*). This concept, regulated in Article 1365 of the Civil Code, stipulates that any act that violates the law and causes harm to another obligates the perpetrator to provide compensation. Civil law doctrine consistently outlines that to prove an unlawful act, a plaintiff must demonstrate the fulfillment of five cumulative elements. These elements are: the existence of an act, the unlawfulness of the act, the presence of fault (either intent or negligence), the occurrence of damages, and a causal link between the act and the damages (Wardhani & Ningsih, 2024). The application of these elements in the context of agrarian disputes is crucial, as it is here that judges assess and weigh the rights of the opposing parties (Mughni & Badriyah, 2025).

The issue becomes increasingly complex when judicial institutions inconsistently apply procedural and material legal norms. An identical land dispute involving similar evidence and witnesses can yield contradictory court decisions. This divergence can occur between a District Court as the court of fact (*judex factie*) at the First Instance level, a High Court as the *judex factie* at the Appeal level, and the Supreme Court as the court of law (*judex juris*) at the Cassation level. Such variation in rulings not only creates disconcerting legal uncertainty for justice seekers but also raises fundamental questions about the consistency of judges' interpretation and application of legal principles. This phenomenon underscores the potential for paradigmatic differences, where one judicial tier may lean toward a rigid legal positivist approach, while another adopts a more progressive stance oriented toward substantive justice (Ardiansyah et al., 2025; Toruan & Djaja, 2025).

The case study examined in this research clearly illustrates this problem. An ownership dispute over a 14,000 m² parcel of land in East Kutai, East Kalimantan, has traversed all levels of the Indonesian judiciary. The case commenced with a lawsuit at the Sangatta District Court, which found in favor of the plaintiff based on evidence of physical possession. However, this ruling was surprisingly overturned by the East Kalimantan High Court. The matter did not end there; the Supreme Court, in its Cassation Decision, annulled the High Court Decision and restored the plaintiff's victory. This victory was subsequently reaffirmed in the Judicial Review Decision. The dramatic dynamics of the decisions—from winning to losing and then winning again—offer a rare juridical laboratory. This laboratory allows for a meticulous dissection of

how judges at each judicial level interpret evidence, apply the elements of an unlawful act, and ultimately reach different legal conclusions.

Although the literature on agrarian law and unlawful acts in Indonesia is extensive, a significant research gap exists. The majority of studies tend to focus on the analysis of a single, isolated court decision (Andri, 2024; Dewi et al., 2025) or examine specific theoretical aspects, such as the evidentiary strength of documents (Zefanya & Lukman, 2022) and the general application of unlawful act elements (Malau et al., 2023). Rarely does one find research that conducts a comprehensive longitudinal analysis, tracking and comparing the legal reasoning (*ratio decidendi*) of a specific case continuously from the District Court of First Instance through a Judicial Review at the Supreme Court. However, it is precisely this in-depth analysis of the dynamics of decisions across judicial tiers that can vividly reveal how legal principles are tested, interpreted, and corrected within the judicial hierarchy. Grounded in this gap, this research offers a novel analysis of the entire judicial process in the East Kutai land dispute.

Therefore, this research is formulated to achieve three primary objectives. *First*, to analyze in-depth how the elements of an unlawful act under Article 1365 of the Civil Code were applied and interpreted by judges at each judicial tier in the East Kutai land dispute case. *Second*, to examine the dynamics and consistency of the legal reasoning (*ratio decidendi*) across the District Court Decision, the High Court at the Appeal level, the Supreme Court at the Cassation level, and the Judicial Review. *Third*, to investigate the jurisprudential implications of the final Supreme Court decision on the discourse regarding legal certainty versus substantive justice in the resolution of agrarian disputes. This study is expected to provide a theoretical contribution to the development of civil law and procedural law. Furthermore, it aims to offer practical benefits as a reference for judges, advocates, and academics seeking to understand the complexities of evidence and law enforcement in land disputes in Indonesia.

METHOD

To dissect the complexities of legal norm application in the land dispute at the center of this study, this research fundamentally adopts a normative juridical approach. This approach was chosen for its intrinsic relevance to the research objectives, which seek to analyze and interpret the law as a coherent system of rules and principles. Within the framework of doctrinal legal research, law is not viewed as a social phenomenon but as a product of authoritative texts comprising statutes, court decisions, and scholarly doctrines (Qamar & Rezah, 2020). Consequently, the primary focus of the analysis is directed at the process of legal discovery (*rechtsvinding*) undertaken by judges in a series of rulings, from the District Court level to the Judicial Review at the Supreme Court. This methodology allows the researcher to conduct an

inventory, interpretation, and systematization of the positive law related to unlawful acts and the proof of land rights, as manifested in the concrete case under investigation.

This research is classified as descriptive-analytical with a qualitative orientation. Its descriptive nature is realized through the effort to systematically and chronologically present the relevant legal facts, particularly concerning the factual background of the case and the legal reasoning (*ratio decidendi*) contained within each court decision. However, the study does not merely stop at description. Its analytical aspect is central, wherein the described legal data are critically analyzed to answer the research questions. This analysis includes a comparison of legal reasoning across judicial tiers, an evaluation of the consistent application of the elements of Article 1365 of the Civil Code, and the identification of the final ruling's juridical implications. While firmly adhering to the normative corridor, this research also employs a limited socio-legal perspective, not as a method for field data collection, but as an interpretive lens to situate the legal findings within the broader context of social values, such as legal certainty and substantive justice for the community of justice seekers.

The data sources for this study include primary and secondary legal materials (Sampara & Husen, 2016). The primary legal materials are the main data subjected to analysis, comprising official copies of the final and binding court decisions: District Court Decision Number 21/Pdt.G/2023/PN Sgt, High Court Decision Number 209/Pdt/2023/PT Smr, Cassation Decision Number 3959 K/Pdt/2024, and Judicial Review Decision Number 724 PK/Pdt/2025. Meanwhile, secondary legal materials are utilized as the theoretical framework and analytical tools. These materials include relevant legislation such as the Civil Code and Law Number 5 of 1960, along with their implementing regulations. Additionally, doctrinal literature from textbooks, articles in reputable scholarly journals, and prior research relevant to unlawful acts and agrarian disputes are used. All legal materials were collected using a document study technique, conducted through systematic identification, inventory, and classification to ensure the completeness and relevance of the data.

A qualitative-normative approach is employed for data analysis, using a series of logical steps to address each research objective (Irwansyah, 2020). The first stage involves conducting a content analysis of each court decision to extract the judicial reasoning related to the fulfillment of the elements of an unlawful act: the act itself, fault, damages, and causality. The second stage is a comparative analysis that juxtaposes the legal reasoning (*ratio decidendi*) from the four decisions. In this phase, points of interpretive divergence, the juridical reasons for a higher court's annulment of a decision, and the manner in which the Supreme Court, as the *judex juris*, corrected the application of the law are identified. The final stage involves synthesis and legal interpretation, in which the entire analysis is woven together to draw conclusions about the dynamics of law enforcement in this case and to formulate its jurisprudential

implications for the practice of land adjudication in Indonesia. Through this structured analytical flow, the research is expected to yield a holistic and in-depth understanding of the subject matter.

RESULTS AND DISCUSSION

A. Genealogy of the Dispute: The Tumultuous Journey of Rulings from the District Court to the Supreme Court

Agrarian disputes are a manifestation of the inherent tensions within Indonesia's land law system, in which land serves not only as an economic commodity but also as a fundamental living space. Law Number 5 of 1960 expressly mandates that every land right has a social function that must be directed toward the greatest prosperity of the people (Sari, 2017). Nevertheless, these noble ideals often collide with on-the-ground realities. Weaknesses in administration and overlapping regulations create a fertile environment for the emergence of ownership conflicts. The mismatch between a limited land supply and ever-increasing demand frequently triggers disputes arising from ambiguous status, illegal occupation, or conflicting claims (Ramadhani, 2021). This set of problems forms the backdrop to the complex legal dispute between Yeperson Bolang (hereinafter, the Plaintiff) and Bejo Selamat and his parties (hereinafter, the Defendants). The dispute concerns the ownership of a 14,000 m² parcel of land located at Jalan Pendidikan Gang 3, also known as Jalan Aji Saka, in the Teluk Lingga Village, North Sangatta Sub-district, East Kutai Regency, East Kalimantan Province.

The legal conflict in this case stems from a diametrical opposition between two fundamentally different bases for ownership claims. On one side, the Plaintiff grounded his right on evidence of actual, continuous, and uninterrupted physical possession (*de facto*). This possession began in 2006 after he received the transfer of cultivation rights from his older brother. This claim is founded on material truth, in which the existence of a right is proven by real and long-term control and use of the land. On the other side, the Defendants built their claim on the foundation of formal truth, namely, land information letters issued by a local official. Armed with these documents, the Defendants physically entered the disputed area, erected semi-permanent structures, and excavated a trench without the Plaintiff's consent. The conflict also had a history of failed mediation in 2014. Thus, the court was confronted with a classic juridical dilemma: which should be prioritized, a right arising from actual possession in good faith or a right grounded in the formal legality of an administrative document?

The first judicial stage commenced when the Plaintiff filed an unlawful act lawsuit at the Sangatta District Court in 2023. After a series of evidentiary processes, including the examination of witnesses and documentary evidence, the Panel of Judges issued District Court Decision Number 21/Pdt.G/2023/PN Sgt on October 11, 2023. In its operative part of the judgment, the District Court substantially granted the Plaintiff's lawsuit. The decision declared the Plaintiff the lawful owner of the disputed land and found the Defendants' actions unlawful. The ruling also ordered them, jointly and severally, to pay material damages amounting to one hundred million rupiah. Furthermore, the decision mandated that the Defendants vacate the disputed object and return it to the Plaintiff. This initial victory provided the first judicial legitimation for the Plaintiff's claim, which was based on physical possession.

However, the recently established legal certainty was short-lived. Dissatisfied with the District Court's Decision, the Defendants appealed to the East Kalimantan High Court. The process at this Appeal level resulted in a dramatic turning point. Through High Court Decision Number 209/Pdt/2023/PT Smr, dated January 9, 2024, the Panel of Judges surprisingly annulled the Sangatta District Court Decision. The High Court declared that the entire lawsuit filed by the Plaintiff was inadmissible. This annulment effectively reversed the situation, making the Defendants the victors. This tumult of rulings not only returned the dispute to square one but also blatantly highlighted a fundamental difference in perspective and in the assessment of evidence between the two courts of fact (*judex factie*) institutions, thereby creating significant legal uncertainty for the parties involved.

Amid this uncertainty, the Plaintiff filed a cassation appeal with the Supreme Court. The Supreme Court, in its capacity as the guardian of legal application, performed a fundamental judicial correction. Through Cassation Decision Number 3959 K/Pdt/2024 on October 22, 2024, the Supreme Court granted the Plaintiff's petition for Cassation. In its ruling, the Supreme Court overturned the East Kalimantan High Court Decision, which was deemed to have erroneously applied the law. By adjudicating the case itself, the Supreme Court reinstated the Sangatta District Court Decision. This Supreme Court intervention was a crucial moment that restored the Plaintiff's legal position and affirmed a legal error in the Appeal-level reasoning. This point will be central to the analysis in the following sub-chapter.

As a final legal measure, the Defendants, having lost at the Cassation level, pursued a Judicial Review. They argued that a clear judicial error existed in the Cassation Decision. However, after re-examining the entire case, the Supreme Court, through Judicial Review Decision Number 724 PK/Pdt/2025 dated August 13, 2025, declared the petition for Judicial Review rejected. This rejection marked

the end of a long and winding litigation journey. The Cassation Decision that favored the Plaintiff is now final and binding (*inkracht van gewijsde*), providing final legal certainty over the ownership status of the disputed land. This genealogy of the dispute, characterized by three rulings that alternately annulled and reinforced one another, provides rich material for dissecting how the principles of agrarian and unlawful act laws are interpreted and enforced within Indonesia's tiered judicial system.

B. The Dialectic of Proof: A Comparative Analysis of the *Ratio decidendi* Across Judicial Tiers

Building upon the previously described genealogy of the dispute, the following analysis will transition from a descriptive-chronological level to an in-depth juridical dissection of the core legal reasoning (*ratio decidendi*) within each court decision. This section specifically aims to deconstruct and compare the constellation of arguments and the legal logic constructed by the panel of judges at each judicial tier. This comparative dissection is essential to reveal how the same evidence can be interpreted differently, how principles of agrarian law can be applied divergently, and ultimately, how evidentiary paradigms—whether oriented toward procedural formalism or inclined toward substantive justice—engage in a dialectic that yields opposing legal conclusions. Through this layered analysis, the fundamental reasons behind the annulments, corrections, and affirmations that characterize the judicial tumult in this case will be vividly exposed.

1. The Initial Foundation: Assessing Evidence of Physical Possession in the Sangatta District Court Decision

At First Instance, the Sangatta District Court, in its capacity as a *judex factie*, was confronted with the fundamental task of examining and assessing the strength of the evidence presented by both parties. It was here that the contest between two paradigms of proof was first adjudicated: the formal truth represented by the Defendants' Land Information Letters versus the material truth embodied in the Plaintiff's claim of continuous physical possession. The legal reasoning of the Sangatta District Court's Panel of Judges demonstrated a clear alignment with the paradigm of material truth. The judges were not ensnared by mere documentary formalism but instead chose to excavate the substance of the right by verifying actual control on the ground. This ruling was predicated on the understanding that, under Indonesia's agrarian legal system, proof of ownership is not absolute and can be tested against other, more convincing evidence, particularly when the authenticity and veracity of existing documents are in doubt.

Specifically, the superiority of the Plaintiff's claim rested on three mutually reinforcing pillars of proof: documentary evidence of the transfer of cultivation rights, witness testimony, and, most importantly, the fact of uninterrupted physical possession (*bezit*). The panel of judges determined that the Plaintiff's possession of the land since 2006, evidenced by cultivation and maintenance activities, was a tangible manifestation of a legally protected right. Long-standing physical possession conducted in good faith became an essential benchmark for determining who truly held the right to the land, especially on parcels not yet formally registered. As argued in studies on evidentiary proof, a statement of physical possession can serve as a strong basis for the recognition of rights because it reflects the actual reality of control on the ground (Zefanya & Lukman, 2022). Thus, the Sangatta District Court judges implicitly affirmed that a right to land is born not merely from a piece of paper, but from the real and historical relationship between a person and the land they possess.

Based on its conclusion regarding the validity of the Plaintiff's physical possession, the panel of judges then systematically constructed the fulfillment of all elements of an unlawful act as stipulated in Article 1365 of the Civil Code. The first element—the existence of an act—was tangibly proven by the Defendants' actions of entering the disputed land, erecting a wooden hut, and digging a trench. These physical actions were undisputed and acknowledged by the Defendants themselves. The second element—the unlawful nature of the act—was logically deduced from the violation of the Plaintiff's subjective right. By declaring the Plaintiff as the party with the superior right to the land, any action by the Defendants that disturbed or seized the Plaintiff's peaceful possession was automatically qualified as an act contrary to the rights of another—a clear form of unlawfulness.

Next, the judges' analysis established the element of fault (*schuld*). It was evident from the Defendants' claim to the 14,000 m² of land based on legally flawed land letters. For instance, the Land Information Letter in the name of Bejo Selamat indicated he had possessed the land since 1997, yet he was only 12 years old at the time. This suspicion of data manipulation was reinforced by the fact that Bejo Selamat was a staff member at the Village Head's Office and should have been aware of the procedures for issuing such letters. This false information served as significant evidence of fault, whether in the form of negligence (*culpa levis*) or intent (*dolus*).

As a result of the Defendants' actions, the Plaintiff suffered tangible material and immaterial damages (*schade*). It was indicated by the Defendants' entry onto land already possessed and cultivated by another party. According

to legal doctrine, every individual has a duty of care to avoid harming others. The act of entering land that is clearly not vacant can be considered a breach of that duty of care (Wardhani & Ningsih, 2024). The element of damages suffered by the Plaintiff was also deemed proven. These damages included material losses, such as crop destruction and the loss of potential economic benefits from the land, as well as immaterial losses, such as the disruption of his peace in possessing the property. The award of one hundred million rupiah in compensation was a quantification of the losses suffered by the Plaintiff.

Finally, the panel of judges affirmed the existence of a direct and uninterrupted causal link (*causal verband*) between the unlawful act committed by the Defendants and the damages experienced by the Plaintiff. The crop damage and the loss of peaceful possession were the direct consequences of the Defendants' actions of entering, building on, and digging a trench on the land. Without these actions, the damages would not have occurred. With all five elements of an unlawful act cumulatively fulfilled, District Court Decision Number 21/Pdt.G/2023/PN Sgt stood as a coherent argumentative structure. This ruling did not just award victory to the Plaintiff; it also sent a strong jurisprudential message: in land disputes with weak formal evidence, the District Court grants primary legal protection to the party who can prove actual, continuous, and good-faith physical possession.

2. The Formalist Turning Point: Annulment of the Decision by the East Kalimantan High Court

Suppose the Sangatta District Court Decision affirmed the material truth paradigm. In that case, the East Kalimantan High Court Decision can be interpreted as a turning point that shifted the pendulum toward a legal formalism paradigm. In its role as a *judex factie* at the Appeal level, the High Court re-evaluated the facts and evidence, but through a fundamentally different optical lens. Where the District Court excavated the substance of the right through physical possession, the High Court focused more on the validity and completeness of the formal requirements of the submitted evidence. This shift in focus became the primary trigger for the decision's annulment, drastically altering the case's legal landscape and creating new uncertainty for the disputing parties.

The legal reasoning (*ratio decidendi*) of the High Court's Panel of Judges predominantly centered on what it considered a fatal weakness in the evidentiary presentation of the Appellee (the Plaintiff at First Instance). The appellate judges highlighted that the majority of the documentary evidence

forming the foundation of the Appellee's claim consisted only of photocopies unsupported by the original documents. Within the framework of civil procedure law, documentary evidence for which the original cannot be produced has degraded evidentiary value. It serves merely as preliminary evidence, with its strength heavily dependent on corroboration from other forms of proof. This formal deficiency was deemed crucial because, in legal transactions involving a vital object like land, adherence to formal requirements is often viewed as an absolute prerequisite for validity (Retnaningsih & Setiawan, 2025). Thus, the High Court applied a more rigid and textualist standard of proof, where the absence of authentic evidence was considered a failure by the Appellee to meet his burden of proof.

Furthermore, the appellate judges' reasoning also cited findings from an on-site examination indicating the presence of a structure belonging to a third party. This third party was not included as a party to the case, rendering the lawsuit defective for want of parties (*exceptio plurium litis consortium*). This fact was interpreted as indicating that the Appellee's claim of full possession was not conclusively proven. This logic is rooted in the principle that a lawsuit must be filed against all parties who hold a legal interest in the disputed object for the judgment to be effectively executed. By combining the documentary evidence's formal weaknesses with the incomplete inclusion of legal subjects, the High Court reached the juridical conclusion that the Appellee had failed to prove his claims. This ruling aligns with perspectives that administrative or formal defects can render a right or claim invalid, even if there is an underlying substantive truth (Heryanti et al., 2024).

However, by prioritizing these aspects of formalism, the High Court Decision implicitly dismissed the weight of the evidence of continuous physical possession, which had previously been the central pillar of the District Court's reasoning. A disconnect emerged between procedural justice and substantive justice. This ruling serves as a classic illustration of the tension that frequently arises in judicial practice: the extent to which a court must be bound by the text and formalities of law, and when it must look beyond them to find the true material truth. The annulment of the decision, while procedurally justifiable under a rigid interpretation of evidentiary law, created an anomaly. The legal position, initially won by the good-faith possessor of the land, was turned one hundred and eighty degrees, awarding victory to the party whose evidence of on-the-ground possession was demonstrably weaker. This formalist turning point ultimately became the primary justification for the Supreme Court's corrective intervention at the Cassation level.

3. The *Judex juris* Correction: Restoring Substantive Justice in the Supreme Court's Cassation Decision

The Supreme Court's intervention at the Cassation level marked a crucial moment in this dispute's journey—a moment of paradigmatic restoration from legal formalism back to the essence of substantive justice. Unlike the court of First Instance and the Appeal level, which are authorized as a *judex factie* to examine facts, the Supreme Court, in its role as a *judex juris*, no longer adjudicates the facts of the case. Its primary focus is to examine whether there has been an erroneous application of the law (error in law) by the lower court of fact (*judex factie*). In this case, the Supreme Court astutely identified that the High Court Decision, while appearing procedurally sound, had indeed erred in applying the principles of evidence and justice in agrarian law. This Cassation Decision, therefore, was not merely an overturn of a ruling but a fundamental judicial correction.

The point of departure for the Supreme Court's legal reasoning (*ratio decidendi*) was the identification of a “manifest error in the application of the law” by the High Court's Panel of Judges. This error lay in two primary aspects. *First*, the High Court panel was deemed to have assigned disproportionate weight to the formal deficiencies of the Plaintiff's evidence (namely, the photocopies) while being insufficiently critical of the substantial weaknesses in the Defendants' claims. The High Court panel used Governor's Decree Number 31 of 1995 as a basis for its considerations without any official evidence of it being submitted during the trial, which contradicts the principle that both sides must be heard (*audi et alteram partem*) and the principles of evidence in civil procedure law. These principles hold that a judge may consider only evidence lawfully presented in court. The Supreme Court held that, where neither party possesses a certificate as conclusive proof of ownership, the judge must meticulously and comprehensively weigh all other evidence. To nullify the Plaintiff's claim solely due to formal defects, without deeply considering the long-standing evidence of physical possession, was considered a narrowing of the meaning of justice. This logic is consistent with other jurisprudence, in which the Supreme Court has often held that unlawful possession by one party cannot be justified merely because the other party has administrative weaknesses in their proof ([Andri, 2024](#)).

Second, and most fundamentally, the Supreme Court restored the value and strength of the evidence of physical possession (*feitelijke heerschappij*) based on good faith. This Cassation Decision implicitly reaffirmed the legal logic constructed by the District Court. The Supreme Court asserted that in agrarian disputes, particularly concerning unregistered lands, actual,

open, undisturbed, and continuous physical possession constitutes the most authentic proof of ownership. It reflects the legal principle that land should be utilized and cultivated, and the state protects those who genuinely work the land (Zefanya & Lukman, 2022). Consequently, the Supreme Court annulled the High Court's formalistic reasoning and returned the substance of the case to the reality of possession on the ground. This ruling demonstrates that law does not exist in a sterile vacuum devoid of social facts; rather, it must respond to and deliver justice within that reality.

With the Plaintiff's status as the superior party to the disputed land restored, the qualification of the Defendants' actions as unlawful was automatically reinstated. The Supreme Court, by annulling the High Court Decision and upholding the District Court Decision, effectively declared that the Defendants' actions of entering and occupying the land constituted a direct violation of the Plaintiff's subjective right. The analysis regarding the fulfillment of the elements of an unlawful act, as detailed in the court decision of First Instance, thus regained its legal legitimacy. This ruling serves as a reinforcing precedent that a land claim based solely on documents of questionable veracity cannot defeat a right born from long-standing and peaceful physical possession, a principle frequently affirmed in various unlawful land occupation disputes (Malau et al., 2023).

Ultimately, the Supreme Court's Cassation Decision in this case serves as a vital balancing instrument within the judicial system. It serves as a reminder that procedural legal certainty must not sacrifice substantive justice, especially in agrarian disputes, which often involve communities with limited access to formal legal procedures. By correcting the High Court's application of the law, the Supreme Court did not just resolve the dispute between Yeperson Bolang and Bejo Selamat; it also provided broader jurisprudential guidance: that in the dialectic between formal and material evidence, judges must have the courage to delve deeper to find the most essential truth and to protect the party that genuinely exercises its rights upon the disputed land.

4. The Final Affirmation: Upholding the Decision in the Judicial Review Examination

The Judicial Review pursued by the Defendants constituted the final act in this judicial drama and the ultimate test of the consistency and integrity of the rulings issued. Unlike ordinary legal remedies such as appeals and Cassation, the Judicial Review is an extraordinary correctional mechanism (extraordinary remedy). Its extraordinary nature implies that it cannot be filed on the grounds of dissatisfaction with the assessment of facts or the application of law that has already been examined at previous levels. The door

to file for a Judicial Review is opened only on a very limited and restrictive basis. It can only be pursued if specific conditions, strictly regulated by law, are met, such as the discovery of new, decisive evidence (*novum*) or the proof of a manifest judicial error. Therefore, the examination at the Judicial Review level is not a retrial but rather a judicial audit to determine whether there are fundamental flaws that vitiate the validity of a final and binding judgment (*inkracht van gewijsde*).

In their petition for Judicial Review, the Defendants (now Petitioners for Judicial Review) alleged judicial error and a conflict between the Cassation Decision and other rulings in similar cases. This argument sought to convince the Supreme Court that the reasoning of the Cassation court (*judex juris*) contained a fatal and manifest error, warranting its annulment. However, the Supreme Court, in its ruling, unequivocally rejected all these arguments. The Judicial Review Panel of Judges opined that what the Petitioners had put forward was not a “manifest judicial error” but a reiteration of arguments concerning the assessment of evidence. In essence, the Petitioners for Judicial Review were merely restating their interpretation of the same facts and evidence that had already been thoroughly considered and decided upon during the Cassation level examination.

This rejection was based on the fundamental principle that a Judicial Review cannot function as a “re-cassation.” The Supreme Court found no error in the panel’s legal reasoning at the Cassation level. The reasoning of the Cassation Decision, which restored substantive justice by prioritizing the evidence of physical possession, was deemed correct and in accordance with the rules of agrarian law and evolving jurisprudence. The argument regarding the existence of conflicting judgments was also refuted, as the case used for comparison was found to involve different subjects, objects, and principal matters of dispute, rendering it irrelevant as a benchmark. Thus, the Supreme Court affirmed that there was no sufficiently strong legal justification to reopen and alter the now-final decision.

This decision to reject the Judicial Review carries highly significant implications. It affords finality and absolute legal certainty regarding the ownership of the disputed land in the Plaintiff’s hands. This rejection definitively concludes all legal contestation and affirms the Cassation Decision as the sole, binding legal truth for all parties. With the end of the litigation process, the focus shifts from pursuing justice to enforcing it. Although a final and binding judgment (*inkracht van gewijsde*) provides certainty, its on-the-ground implementation often still faces various challenges and obstacles, requiring synergy between law enforcement officials and land agencies

to ensure the rights of the dispute's victor can be fully realized (Nuraini & Yunanto, 2023; Rere & Suardi, 2025). The final affirmation in this Judicial Review Decision, therefore, does not merely close the casebook; it also opens a new chapter in the struggle to execute the right that was won through a long and arduous judicial journey.

C. Concrete Implications of the Decision: Manifestations of Legal Protection for the Good-Faith Possessor of Land

The finality of the decision, affirmed through the rejection of the Judicial Review, is not merely the conclusion of a disputed episode; it is the starting point for the concrete realization of legal protection for the victorious party. After a winding and uncertain litigation process, a final and binding judgment (*inkracht van gewijsde*) functions as a state instrument for restoring violated rights. This legal protection is not monolithic but manifests in various complementary forms, ranging from judicial recognition of ownership status to mechanisms for the recovery of material damages. An analysis of these concrete implications is essential to understanding how the judicial system translates principles of justice from the abstract realm into a tangible reality for justice seekers.

The most fundamental form of legal protection is the definitive recognition of the Plaintiff's ownership right to the 14,000 m² of disputed land. Prior to this ruling, the ownership status was in limbo, contested by two claims. The final and binding Supreme Court Decision serves as an authentic deed issued by the judicial institution, unequivocally declaring the lawful owner of the object. This recognition provides the legal certainty that had been missing, granting the Plaintiff an indisputable legal basis to possess, utilize, and enjoy his land. In the context of Indonesia's land law system, which aims to provide legal certainty through land registration (Sari, 2017; Ramadhani, 2021), the court's decision in this case serves as a temporary substitute for the absence of a certificate. This ruling becomes strong proof of right, which can subsequently be used as a basis of title for the official land registration process at the Land Office to obtain a certificate as the highest proof of ownership, in accordance with the mandates of Law Number 5 of 1960 and Government Regulation Number 24 of 1997.

More deeply, this protection also serves as an affirmation of the evidentiary dynamics in Indonesian agrarian law. The land registration system, which adheres to the principle of negative publicity with a positive tendency, allows for challenges to registered data, let alone to claims based merely on non-certificated evidence such as land information letters or letter C (Oktaviani & Harjono, 2019). This case is a clear example of how the court, in carrying out its function of legal discovery (*rechtsvinding*), is not shackled by mere evidentiary formalism. By

granting victory to the party capable of proving actual and good-faith physical possession, the court has provided substantive legal protection. It contrasts with the more formal protection afforded to legitimate certificate holders (Saragih et al., 2025). However, it demonstrates that the legal system still provides space for the protection of land rights that are obtained and maintained in reality, even if not yet perfectly administered (Fachriza et al., 2020). This decision effectively protects landowners from speculative claims based solely on substantially flawed documents.

In addition to being declarative (affirming a right), the legal protection provided is also restorative and repressive through the operative part of the judgment that holds the Defendants liable. *First*, the court ordered the Defendants, jointly and severally, to pay material damages of one hundred million rupiah. It is a direct manifestation of the application of Article 1365 of the Civil Code, wherein any loss arising from an unlawful act must be compensated by the perpetrator. This award of damages is an effort to restore the Plaintiff's economic condition as closely as possible to the state it would have been in had the unlawful act not occurred. *Second*, the court also ordered the Defendants to vacate the disputed land and surrender it to the Plaintiff. This order for vacating, or physical execution, is the most concrete form of protection, as it physically returns possession of the land to its lawful owner. These two orders, taken together, ensure that legal protection does not stop at mere recognition on paper but also entails the full restoration of rights, both economically and in terms of physical possession.

D. The Discourse on Agrarian Justice: Situating the Findings within the Jurisprudential Debate

The final decision in the East Kutai land dispute, after traversing four judicial tiers, transcends the mere resolution of a conflict between parties. It becomes a judicial artifact that actively speaks to a larger, more enduring discourse within the philosophy of law: the tension between formal legal certainty and substantive justice. This ruling cannot be read in isolation; it must be situated within the broader constellation of jurisprudential debates to understand its scholarly significance and contribution. Thus, the analysis no longer stops at the question, "who won?" but moves to a more fundamental question: "what legal principle was upheld, and how does it dialogue with pre-existing legal thought?"

The primary finding from this series of rulings is the Supreme Court's affirmation of the superiority of material truth, embodied in this case by evidence of actual and good-faith physical possession. This truth was deemed superior to the legal formalism represented by substantially flawed documents. The Plaintiff's victory was not based on the strength of an authentic deed but on the judicial

recognition of the reality of long-standing and peaceful possession. This judicial stance reflects a more responsive and progressive approach, in which the judge does not merely act as a mouthpiece of the law (*bouche de la loi*) but actively performs the function of legal discovery (*rechtsvinding*). By prioritizing substance over formality, the court asserts that agrarian law must be capable of delivering justice that is felt by the community. This idea aligns with the view that dispute resolution should reflect society's values of justice through the maqashid approach (Toruan & Djaja, 2025). This ruling serves as an empirical precedent, reinforcing the argument that judicial rationality in agrarian disputes often prioritizes substantive justice, even if it means setting aside the formal power of an authentic deed (Dewi et al., 2025).

Situating this finding in dialogue with other literature reveals an interesting narrative. Several critical analyses of Supreme Court Decisions have identified a strong tendency toward a rigid legal positivist paradigm, in which the Supreme Court often protects the formal validity of certificates without conducting a substantial validity test of their acquisition process (Ardiansyah et al., 2025). The ruling in this East Kutai case appears to present a counter-narrative, or at least a different nuance. Here, the Supreme Court took the opposite position, refusing to legitimize a claim based on flawed documents and instead protecting a right born of the socio-economic reality on the ground. It demonstrates that the Supreme Court's jurisprudence is not monolithic; there is room for progressive considerations that allow for the realization of justice for the party that is factually the most vulnerable.

Furthermore, this decision enriches the jurisprudence concerning the application of the elements of an unlawful act in the land context. The Supreme Court has consistently shaped the legal norm that an act which disturbs or seizes a right to land without a valid legal basis constitutes an unlawful act (Mughni & Badriyah, 2025). This case adds a specific layer to this jurisprudence regarding the standard of proof. It affirms that, to prove the existence of "a violated right," the evidence need not be a certificate. Physical possession, supported by a clear history and credible witnesses, can be accepted as sufficient proof of a right to defeat other claims and to establish the existence of an unlawful act. It becomes significant when compared to other cases where unlawful act lawsuits were rejected because the plaintiff could not prove a strong basis of title whatsoever (Nurmiati et al., 2024). This comparison shows how crucial the judge's role is in weighing and assessing the relative strength of each piece of evidence presented.

Overall, the Supreme Court Decision in the East Kutai land dispute provides a significant jurisprudential contribution. It functions as a reaffirmation that the Supreme Court, as the final guardian of justice, plays a vital role in maintaining

the balance between legal certainty and the public's sense of justice. By refusing to be trapped in blind formalism, this ruling sends a powerful message to justice seekers and legal practitioners alike: a right to land is born not only from a piece of paper but also from the sweat, time, and good faith poured upon it. This decision, therefore, is not just a victory for Yeperson Bolang; it is also a valuable precedent that strengthens legal protection for thousands of other good-faith land cultivators throughout Indonesia, while simultaneously encouraging a more substantively oriented judicial practice in resolving agrarian disputes.

CONCLUSIONS AND SUGGESTIONS

Based on the results and discussion, it can be concluded that the application of the elements of an unlawful act in the East Kutai land dispute was upheld through a complex judicial process in which the Supreme Court ultimately affirmed the superiority of material truth over flawed legal formalism. The five elements in Article 1365 of the Civil Code—the act, unlawfulness, fault, damages, and causality—were proven to be fulfilled not based on the strength of an authentic deed, but on the recognition of evidence of actual, continuous, and good-faith physical possession. The fluctuating dynamics of rulings from the District Court to the Supreme Court reveal a paradigmatic dialectic within the judiciary between the formalistic approach adopted by the High Court and the substantive justice approach ultimately restored by the Supreme Court as the *judex juris*. The final and binding decision not only provides concrete legal protection for the good-faith land possessor but also contributes significantly to jurisprudential discourse as a precedent that reinforces the judiciary's orientation toward achieving substantive justice in the resolution of agrarian disputes in Indonesia.

Based on these conclusions, several suggestions are formulated for relevant stakeholders. *First*, for the Government, particularly the National Land Agency, it is recommended that land registration programs be accelerated across all regions, accompanied by strengthened verification and oversight systems to prevent the issuance of overlapping or substantially flawed land documents. *Second*, for the judicial apparatus, it is recommended that the Supreme Court proactively use progressive rulings such as the one in this case as material for continuing education and training programs for judges, to standardize perceptions and enhance the capacity to balance formal legal certainty with the public's sense of justice. *Third*, for the public, there is a need for greater legal literacy about the importance of document completeness and validity in every land transaction, as well as awareness of official registration channels to obtain a certificate, the strongest proof of ownership. *Finally*, for academia, this research opens avenues for further study using a socio-legal approach to document the social and economic impacts of agrarian court decisions, thereby enriching normative juridical analysis with a more holistic and grounded perspective.

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