


Dispute Settlement Mechanisms for Educational Land Use in Buleleng Regency: A Legal Case Study of Sekolah Dasar Negeri 2 Sambangan

 I Ketut Kasta Arya Wijaya^{1*}, Gede Jumat Adi Jaya², I Nyoman Alit Puspadma³, I Wayan Wesna Astara⁴

^{1,2,3,4}Faculty of Law, Warmadewa University, Denpasar, Bali, Indonesia; kastaaryawijaya@gmail.com

Keywords:

Dispute resolution,
Grant,
Land conflict,
Legal certainty,

Abstract. This study aims to analyze the inhibiting factors and conflict resolution mechanisms concerning land ownership at SD Negeri 2 Sambangan, which was built in 1965 on land obtained through a land swap agreement between the local community and the government. Legal uncertainty surrounding the validity of the land grant has triggered disputes, particularly from heirs who claim ownership due to the absence of legal documentation. This conflict has disrupted public services, especially access to clean water, and hindered school renovations and the teaching-learning process. The research employs an empirical legal method with statutory, analytical, and socio-legal approaches. Primary data were obtained through observations and interviews, while secondary data were sourced from legal documents, academic journals, and online media. Data collection techniques included document studies, field observations, and interviews. The research was conducted at the Department of Education, Youth, and Sports; the Department of Housing, Settlement, and Land Affairs; and the Regional Financial and Revenue Management Agency of Buleleng Regency. The findings reveal two main points: (1) the primary obstacle in resolving the conflict is the inability of the claimants to present valid ownership documents, and (2) the conflict resolution effort is pursued through non-litigation methods, primarily mediation, with the establishment of the Faseta Team. This study underscores the importance of legal protection and effective dispute resolution mechanisms to ensure legal certainty over public assets.

1. INTRODUCTION

Land-related disputes remain a persistent and multifaceted issue within Indonesia's agrarian context, particularly concerning ownership status and the use of land for public purposes. A recurring feature of these disputes is the insufficient or absent legal documentation affirming long-term land utilization by either state institutions or local communities. This legal vacuum often leads to overlapping claims, especially from third parties such as heirs of former landowners, contributing to legal uncertainty and social instability.¹

The land conflict at SD Negeri 2 Sambangan in Buleleng Regency exemplifies this structural problem. The school was constructed on land obtained through a land swap (*tukar guling*) agreement between the local government and community in 1965. However, the lack of formal legal evidence documenting this agreement has resulted in subsequent ownership claims by the heirs of the original landowners. This conflict has disrupted the delivery of essential public services, including access to clean water, educational continuity, and school infrastructure development, thereby exposing deeper weaknesses in local land governance and the legal protection of public assets.²

In a *rechtsstaat* (rule-of-law-based state), legal certainty over public land assets is foundational to the principles of good governance and effective public administration.³ Addressing land disputes in this context requires not only normative legal approaches, but also socio-legal and empirical methods that acknowledge the historical, cultural, and institutional complexities embedded in such conflicts.⁴ It is thus imperative to identify structural constraints that hinder conflict resolution, while also evaluating the effectiveness of non-litigation mechanisms such as mediation, which is often employed as a primary method for resolving land tenure disputes in Indonesia.⁵

This study aims to contribute to the theoretical development of the literature on land dispute resolution by emphasizing the critical importance of integrating legal frameworks, land administration systems, and alternative dispute resolution (ADR) mechanisms. Such a synergistic approach is essential for ensuring effective legal protection of public assets. The findings are expected to inform the formulation of more comprehensive, adaptive, and sustainable policy frameworks for resolving land-related conflicts.

In this regard, public asset users are legally and administratively obliged to safeguard the assets under their control. This obligation includes ensuring proper documentation and legal ownership status, such as through the possession of land certificates issued by authorized institutions. However, in practice, disputes continue to arise—particularly involving public facilities such as government-funded elementary schools (e.g., SD Inpres)—due to the ambiguity of land ownership status. These conflicts are often triggered by overlapping claims from private entities or local communities, undermining public service delivery and reflecting broader institutional weaknesses in land governance.

¹ D. Fitzpatrick, 'Land, Custom and the State in Post-Tsunami Aceh.', *Singapore Journal of Tropical Geography*, 3.28, pp. 253–269., doi:<https://doi.org/10.1111/j.1467-9493.2007.00300.x>.

² A. (2016). Bedner, 'Indonesian Legal Education, Legal Scholarship and Legal Research: An Agenda for Reform.', *Asian Journal of Law and Society*, 6.1, pp. 85–104., doi:<https://doi.org/10.1017/als.2018.45>.

³ S. Sagala, S., Supriatna, M., & Afiff, 'Conflict over Land and Natural Resources in Indonesia', *A Review of the Literature. Forest and Society*, 5.1 (2021), pp. 152–166., doi:<https://doi.org/10.24259/fs.v5i1.11309>.

⁴ Sagala, S., Supriatna, M., & Afiff.

⁵ Elza Syarif, 'Menuntaskan Sengketa Tanah (Full)', in *Kepustakaan Populer Gramedia*, 2014, pp. 1–448.

Such recurrent disputes indicate the need for an integrated dispute resolution framework that combines formal legal mechanisms with more participatory and context-sensitive approaches. This aligns with scholarly calls for improved institutional coordination and legal certainty in land governance, especially in developing countries.⁶

Table 1: Conflict-affected primary schools in Buleleng regency.

Number	School name
1.	SD Negeri 2 Sambangan
2.	SD Negeri 3 Banjar
3.	SD Negeri 4 Kubutambahan
4.	SD Negeri 5 Kubutambahan

Source: Department of Education, Youth, and Sports, Buleleng Regency.

According to data from the Department of Education, Youth, and Sports of Buleleng Regency, several schools within the regency are recorded as being involved in land disputes between community groups or private parties and the government. These conflicts have resulted in significant disruptions, particularly affecting the teaching and learning processes of both teachers and students.

One such land conflict currently under discussion involves the claim of land ownership by a community group or private party asserting inheritance rights over the land on which SD Negeri 2 Sambangan (Sambangan Public Elementary School No. 2) was established. The conflict emerged following a land seizure initiated in 2017, which stemmed from the alleged non-fulfillment of a prior agreement. The school was built on donated land in 1965 under a land-swapping agreement wherein the land was to be used for educational purposes, and in return, the original landowners were to receive access to water services. However, the heirs now claim that they no longer receive access to the promised water services. Consequently, they are demanding compensation from the government amounting to IDR 500 million for the land in question.

2. RESEARCH METHODOLOGY

This study employs an empirical legal research approach, examining issues based on factual conditions observed in the field. The methodological framework integrates several approaches: Statutory Approach: Used to analyze relevant legal provisions governing the subject matter, Analytical Approach: Applied to critically assess both legal and non-legal data., Sociological Approach to Law: Utilized to understand community legal behavior, particularly in relation to land dispute phenomena.

Sources of Data: Primary data were collected through direct field observation and in-depth interviews with school representatives, legal heirs, and relevant government institutions. Secondary data were obtained from legal documents, academic literature, and verified online news sources. Data Collection Techniques: Data were gathered using document studies, field observations, and semi-structured interviews. Research Sites: This research was conducted at the following institutions: Department of Education, Youth, and Sports of Buleleng Regency, Department of Housing, Settlement Areas, and Land Affairs, Regional Financial Management and Revenue Agency of Buleleng Regency

3. RESULTS AND DISCUSSION

3.1. Land Tenure and Usage Conflict in Sd Negeri 2 Sambangan: Barriers to Resolution Efforts

Land ownership and usage disputes within public education institutions, particularly public elementary schools, frequently represent complex and protracted issues that demand strategic, multi-faceted interventions. One notable case is the land conflict involving SD Negeri 2 Sambangan in Buleleng Regency, Indonesia. This school was originally established through the Presidential Instruction Program (Inpres), and the land on which it was constructed was donated informally by a local community member. However, the land transfer was conducted solely based on verbal agreement without formal written documentation.

According to an interview with Ms. Gusti Putu Astriani, Asset Manager at the Department of Education, Youth, and Sports of Buleleng Regency (February 6, 2025), the village administration failed to facilitate or secure legal documentation of the land grant. Consequently, the absence of formal legal evidence has hindered the ability of the government to officially register the land as a state asset.

This issue is further exacerbated by limited public understanding of land law and the significance of legal documentation in land transactions. Many community members remain unaware of the legal distinctions between different land tenure types, such as Sertifikat Hak Milik (Certificate of Ownership) and Sertifikat Hak Pakai (Certificate of Use). This legal illiteracy contributes to misconceptions and resistance toward the issuance of land certificates under state authority, due to fears of losing personal ownership or community control over the land.⁷

Therefore, the resolution of the land conflict at SD Negeri 2 Sambangan necessitates not only administrative and legal measures but also community engagement through legal education. Enhancing public awareness of land tenure regulations and the legitimacy of state-held land use rights is critical to promoting effective, participatory, and sustainable conflict resolution mechanisms.⁸

3.2. Analysis of Land Conflict Resolution in SD Negeri 2 Sambangan Based on the Legal System Theory by Lawrence M. Friedman

Based on the interview conducted on February 6, 2025, with Mr. Nyoman Budiarsana, Head of the Land Affairs Division at the Department of Housing, Settlement Areas, and Land Affairs of Buleleng Regency, it was revealed that the resolution of land disputes at SD Negeri 2 Sambangan has primarily emphasized mediation efforts. These efforts were facilitated by the Regional Dispute Resolution Team (Tim Faseta) of Buleleng Regency. However, the resolution process has faced several significant

⁶ K. Burns, T., Grant, C., Nettle, K., Brits, A., & Dalrymple, 'Land Administration Reform: Indicators of Success and Future Challenges. .', *Land Use Policy*, 24.4, pp. 637–647, doi:<https://doi.org/10.1016/j.landusepol.2006.11.001>.

⁷ H. Sutanto, 'The Role of Land Certification in Mitigating Agrarian Conflict in Indonesia.', *Land Use Policy*, 104.88, p. 99, doi:<https://doi.org/10.1016/j.landusepol.2020.104880>.

⁸ T. (Lindsey, 'Legal Infrastructure and Governance Reform in Post-Authoritarian Indonesia.', *Bulletin of Indonesian Economic Studies*, 54.2 (2018), pp. 129–148., doi:<https://doi.org/10.1080/00074918.2018.1482465>.

impediments, notably the insufficiency of evidence or documentation provided by the claimants—who assert inheritance rights—and the legal uncertainty regarding land ownership due to the absence of formal land certificates. Furthermore, the bureaucratic process for issuing such certificates is time-consuming, exacerbating delays in legal clarity.

From a systemic legal perspective, this situation can be critically analyzed using Lawrence M. Friedman's legal system theory, which posits that the functioning of a legal system depends on three interrelated components: the structure of law, the substance of law, and the legal culture.⁹ The legal structure comprises the institutional and procedural framework, including law enforcement agencies and administrative bodies responsible for ensuring the implementation of legal norms. In the context of this case, the structural apparatus is relatively complete, involving institutions such as the District Attorney's Office, the Police Department, the Department of Education, the Department of Housing and Settlement, and the Regional Revenue and Financial Management Agency. Nevertheless, the inefficiency in the land certificate issuance process reveals structural weaknesses that hinder the system's effectiveness, which, in turn, can affect societal compliance and trust in legal institutions.¹⁰

The substance of law in this context refers to the actual legal norms and mechanisms utilized to resolve the dispute. The mediation process undertaken aligns with Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which encourages non-litigious conflict resolution approaches such as mediation. This method is especially pertinent in public interest sectors like education, where prolonged disputes may negatively impact the continuity of learning processes.¹¹ Consequently, mediation should ideally involve comprehensive dialogue among stakeholders—schools, local communities, and governmental bodies—to reach resolutions that prioritize sustainable educational access.

Finally, the legal culture—defined as the attitudes, values, beliefs, and expectations of society towards law and its institutions—is critical in shaping the outcomes of dispute resolution. In this case, cultural dynamics play a pivotal role in determining the success of mediation. The inability to reach a mutually acceptable resolution (i.e., a win-win solution) indicates that cultural aspects, such as communal consensus and traditional values concerning land ownership and inheritance, may not have been adequately integrated into the mediation process.¹² Effective legal outcomes require harmonization between formal legal procedures and societal norms, emphasizing the need for culturally sensitive mediation frameworks.

In summary, while institutional mechanisms and legal norms for resolving the land dispute at SD Negeri 2 Sambangan are in place, the resolution process is hampered by structural inefficiencies and a lack of cultural synergy among stakeholders. A more integrative approach, which considers legal pluralism and fosters collaborative dialogue, is essential for achieving a just and sustainable resolution.

3.3. Legal Certainty and Land Ownership Rights in Indonesia: A Case of Dispute Due to Lack of Documentation

In the resolution of a land dispute case, the heirs demanded compensation and initially rejected a peaceful settlement. Consequently, the facilitation team (Tim Faseta) requested that the heirs present valid legal documents such as land ownership certificates. However, this request could not be fulfilled as the heirs lacked the necessary legal documentation to support their claims. This deficiency stems from a broader societal issue—limited public understanding regarding the significance of legal documentation in land transactions, particularly during land swaps (*tukar guling*), and the legal distinction between land ownership certificates (*Sertifikat Hak Milik*) and certificates of use (*Sertifikat Hak Pakai*).¹³

The possession of certified legal documents serves not only as a fulfillment of administrative requirements but also as a guarantee of legal certainty. Land certificates provide verifiable physical and juridical data, ensuring enforceable ownership rights. Since land constitutes a fundamental human need and individuals conduct their daily activities upon it, legal certainty over land rights becomes indispensable.¹⁴

Under Article 1868 of the Indonesian Civil Code (*Burgerlijk Wetboek, BW*), an authentic deed is one that is created and legalized in accordance with statutory requirements by a competent public official. Such deeds serve as valid legal evidence and carry presumptive legal certainty without the need for corroborating evidence. This legal standing reinforces the importance of formalized land ownership documentation.¹⁵

In accordance with Article 16(1) of Indonesia's Basic Agrarian Law (*Undang-Undang Pokok Agraria/UUPA*), land rights include ownership rights (*hak milik*) and rights of use (*hak pakai*). Article 20(1) UUPA defines *hak milik* as a hereditary, strongest, and most complete right that an individual may possess over land, subject to Article 6 UUPA. However, these ownership rights can be nullified under certain conditions:¹⁶

- a. Reversion of land to the state, due to: expropriation based on prevailing regulations; voluntary surrender by the owner; abandonment; or due to citizenship status changes as stipulated in Articles 21(3) and 26(2) UUPA.
- b. Destruction of land, often caused by natural disasters such as erosion, subsidence, or other irreversible environmental conditions.

Following any transfer of rights, it is imperative to register the land at the National Land Agency (*Kantor Pertanahan*) to formalize the change in ownership. Transfers can occur via inheritance, sale, or name change. Although ownership rights (*hak milik*) are considered perpetual and strongest in nature, they may become vulnerable if the land remains unoccupied or is under long-term use by another party without formal agreement, despite long-standing application of the UUPA.¹⁷

Legal recognition of land rights must be substantiated through valid legal documentation. Verbal or undocumented claims of land ownership hold no legal weight. With the implementation of the UUPA, the public is expected to understand the various types of land tenure, including state control rights (*hak menguasai negara*), customary communal rights (*hak ulayat*), and individual

⁹ Lawrence Friedman, *The Legal System*, New York: Russell Sage, See Also in Lawrence M. Friedman, 'Legal Culture and Welfare State', Pg 23, ed. by Walter de Gruyter., (Ed), Dile (1989).

¹⁰ Ni Ketut and Sari Adnyani, 'Perlindungan Hukum Kesatuan Masyarakat Hukum Adat Dalam Pengelolaan Pariwisata Berbasis Kearifan Lokal', 20.2 (2021), pp. 70–80.

¹¹ Otong Rosadi, *Qua Vadis, Hukum Ekologi Dan Keadilan Sosial (Dalam Perenungan Pemikiran Filsafat Hukum)* (diterbitkan atas kerjasama Satjipto Raharjo Institute, 2012).

¹² Roger Cotterrell., *Sosiologi Hukum The Sociology Of Law*. (Nusamedia., 2006).

¹³ R. Larasati, A., & Utami, 'Legal Certainty in Land Ownership in Indonesia.', *Jurnal Hukum & Pembangunan*, 52.1, pp. 15-30.

¹⁴ Afif Khalid and others, *ANALISIS YURIDIS TENTANG PENYELESAIAN SENGKETA HAK ATAS TANAH AKIBAT SERTIFIKAT GANDA*.

¹⁵ Wirjono Prodjodikoro, *Hukum Perdata Tentang Hak Atas Benda*, (Jakarta : INternasa, 1986, 1979) <<https://opac.perpusnas.go.id/DetailOpac.aspx?id=319197>>.

¹⁶ Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan UUPA Isi Dan Pelaksanaannya. Jilid I Hukum Tanah Nasional, D*, Cetakan Ke (jambatan, 2003).

¹⁷ N. L. A. Sari, 'Konsep Hak Menguasai Negara Terhadap Tanah Dalam Hukum Tanah (UUPA) Dan Konstitusi', *Ganec Swara*, 1.15 (2021), pp. 991-998.

ownership rights.¹⁸

Meanwhile, Article 41(1) UUPA defines *hak pakai* as the right to use and benefit from land either controlled directly by the state or owned by another individual. This right is granted through a formal decree or a contractual agreement and must not contravene statutory provisions. *Hak pakai* may be exercised for purposes such as building construction, agriculture, fishery, animal husbandry, and plantation operations. Rights of use on state land arise from government-issued decrees, whereas rights on privately-owned land are based on private contractual arrangements.¹⁹

This case underscores the critical need for enhanced public education regarding legal land rights, particularly concerning the implications of undocumented ownership and the potential loss of land due to legal deficiencies. Strengthening legal literacy and ensuring access to formal land registration mechanisms are essential to safeguarding property rights in Indonesia.

Article 42 of the Indonesian Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA) stipulates that the right to use land (*hak pakai*) may be granted to:

- a) Indonesian citizens;
- b) Foreign nationals domiciled in Indonesia;
- c) Legal entities established under Indonesian law and domiciled in Indonesia; and
- d) Foreign legal entities with a representative office in Indonesia (UUPA, 1960, Article 42).

In a recent dispute involving a claim by an alleged heir against a school occupying the contested land, the heir demanded compensation. However, the inability of the claimant to present necessary legal documents significantly hampered the process of dispute resolution. This situation underscores the vital role of land registration in securing and affirming legal certainty of land ownership.

Mr. Nyoman Budiarsana, Head of the Land Affairs Division at the Housing Agency, stated that the regional government would act fairly and provide support, provided there is valid and legitimate proof of ownership. However, in many cases, as in this dispute, claimants lack the required documentation due to inherited land being passed down without formal legal instruments. This absence of documentation is often rooted in a lack of awareness or legal literacy among previous owners, leading to the current generation's inability to establish legal ownership under national law.

Consequently, this scenario results in a prolonged and unresolved legal conflict. The factors impeding the resolution of this land dispute include the following:

1. Lack of Valid Legal Documents

A primary impediment in resolving land conflicts is the absence of legal proof of ownership. Claimants often fail to produce authentic and valid documents to substantiate their rights over the land in question. This issue is prevalent in customary inheritance practices where legal formalities are overlooked.²⁰

2. Lack of Legal Awareness Among the Public

There is a significant deficiency in public understanding regarding the necessity of written agreements and the legal process of registering land rights. In this particular case, following a land exchange (*tukar guling*), no further administrative actions were taken to legally register the transaction, resulting in the absence of formal proof such as land certificates. This gap demonstrates a systemic issue in legal education and accessibility.²¹

3. Administrative Challenges Within Government Institutions

The government's land administration system has not fully optimized the registration and data collection of lands used for public facilities such as schools. Following mediation in this case, the local government initiated the certification process by submitting data to the National Land Agency (Badan Pertanahan Nasional/BPN) in Buleleng Regency. However, the issuance of land certificates remains a lengthy process, delaying final conflict resolution. Continued inter-institutional coordination is required to ensure administrative follow-through.²²

4. RESOLUTION OF LAND CONFLICTS FOR EDUCATIONAL PURPOSES AT SD NEGERI 2 SAMBANGAN

Ki Hajar Dewantara asserted that education is an intrinsic demand in the natural growth and development of children. According to him, education is the process of guiding all inherent powers within children so that they may develop as human beings. It is also the process of guiding them as members of society to attain the highest degree of safety and happiness. The ultimate goal of education, according to Dewantara, is to produce individuals who are resilient and morally grounded within society. These individuals embody the ethical values of the Taman Siswa philosophy by upholding the *Tri Pantangan*—namely, refraining from abuse of power, financial manipulation, and violations of ethical norms.²³

In line with this philosophy, the establishment of educational infrastructure becomes a critical element to support social prosperity and development. The land on which SD Negeri 2 Sambangan was built was obtained through a *land exchange (tukar guling)* agreement between a private individual and the local government, thereby constituting a legal transfer of land use rights. Such transfers may occur either deliberately or unintentionally, resulting in the reassignment of rights to another party. Deliberate land rights transfers include mechanisms such as sale and purchase, barter (*tukar menukar*), grants (*hibah*), and auctions, all based on mutual agreement. In contrast, inheritance represents an unintentional mode of transfer.²⁴

Regrettably, the aforementioned land exchange process remains unresolved, creating a state of legal uncertainty. This has led to internal disputes among the heirs of the previous landowner, culminating in a protest that involved the sealing of the land to assert their claims against the government and the school authorities. This conflict has directly disrupted the educational process, impeding teaching and learning activities for students and teachers at SD Negeri 2 Sambangan. Moreover, the school building itself has suffered significant structural damage, posing additional risks to the continuity of education. Notably, in 2022, the claimant reportedly blocked access to the teachers' residence, which has been repurposed as a library.²⁵

According to a statement by Ms. Gusti Putu Astriani, the Property Administrator of the Education, Youth, and Sports Office

¹⁸ Imam Koeswahyono, *HAK MENGUASAI NEGARA, PERSPEKTIF INDONESIA SEBAGAI NEGARA HUKUM*.

¹⁹ Boedi Harsono, *Hukum Agrarian Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi Dan Pelaksanaannya*, (Djambatan, 1999).

²⁰ Maria S.W. Sumardjono, *Tanah: Dalam Perspektif Hak Ekonomi Sosial Dan Budaya*, 1st edn (Yayasan Obor Indonesia, 2008, 2008).

²¹ E. Hendro, 'Legal Awareness and Land Registration in Indonesia: A Socio-Legal Study.' , *Indonesian Journal of Law and Society*, 1.1, pp. 101–120.

²² BPN., *Annual Report of the National Land Agency of Indonesia*.: (2020).

²³ K. H. Dewantara, *Pendidikan: Pemikiran, Konsep, Dan Aktualisasi*. : (Taman Siswa.).

²⁴ Maria S.W Sumardjono, *Tanah Dalam Perspektif Hak Ekonomi, Sosial Dan Budaya* (Penerbit Buku Kompas, 2, 2009).

²⁵ Dwi Wulan. Pujiyanti and Widhiyana Hestining. Puri, *Penanganan Sengketa Dan Konflik Pertanahan : Hasil Penelitian Strategis STPN 2013* (PPPM-STPN, 2013).

of Buleleng Regency, delivered on February 6, 2025, the ongoing conflict has prevented the submission of proposals for school building renovation. Prolonged unresolved conflict threatens not only the educational environment but also the fundamental rights of children to access education. The legal dispute over land ownership generates anxiety and insecurity among all stakeholders involved. Therefore, it is imperative that the conflict be resolved through collaborative dialogue and the pursuit of equitable, legally sound agreements that uphold justice and ensure the continuity of educational services.

4.1. Conflict Resolution at Sekolah Dasar Negeri 2 Sambangan: A (State Elementary School 2 Sambangan)

4.1.1. Legal-Journal Style Discussion

Land conflict is inherently complex and multidimensional. It intersects diverse sectors—education, economy, clothing, food, and housing—necessitating vertical and horizontal coordination among government institutions. Land is a valuable natural resource whose escalated demand in a rapidly evolving world intensifies its significance across societal needs.

Historically, conflict resolution has followed two formal routes: litigation and non-litigation. Litigation takes place within courts—such as District Courts (Pengadilan Negeri) or Administrative Courts (Pengadilan Tata Usaha Negara)—following a protracted process: filing a lawsuit, hearings, and judicial verdict. This method typically demands significant time, financial outlay, and human resources.

In contrast, Alternative Dispute Resolution (ADR)—non-litigation—offers a more expedient, cost-effective, and mutually beneficial (win-win) approach. As ADR scholar²⁶ notes, hybrid non-litigation models, which blend informal and formal mechanisms, can reduce transaction costs and foster equitable outcomes. Under ADR, mediators (e.g., from the land office) work to bridge disputing parties, emphasizing peace and consensus.

Influential legal theorist Philipus M. Hadjon defines legal protection as twofold:

1. Preventive protection: Such as the right to provide objections (*inspraak*) before government decisions are finalized—crucial for averting disputes.

2. Repressive protection: Activated after dispute emergence, offering remedies through specialized bodies.²⁷

In Indonesia, ADR methods are codified in Law No. 30/1999 on Arbitration and Alternative Dispute Resolution (Art. 1(10)): they encompass negotiation, consultation, mediation, conciliation, and expert appraisal. These methods require mutual consent to receptor procedures agreed upon between parties.

In the case of SD Negeri 2 Sambangan, conflict resolution involved multiple stakeholders: local village (Perbekel), sub-district (Camat), District Office of Education, Youth and Sports, and the land office via its *Singaduta* digital archiving system under the Buleleng Housing, Settlement, and Land Agency. Initial efforts by village and sub-district officials failed to secure agreement, prompting escalation to district authorities. This reflects findings by Siregar, who demonstrated that local wisdom and mediation play crucial roles in resolving land disputes outside formal court systems.²⁸

Furthermore, indigenous customary courts (*pengadilan adat*) have been recognized as viable ADR institutions, particularly for disputes grounded in communal or ancestral land claims. Abdullah et al. (2023) underscore the importance of aligning customary legal norms with statutory law and involving customary communities in dispute resolution to ensure legitimacy and fairness.²⁹

Following the submitted complaint, the matter was subsequently followed up to be facilitated further. The resolution of land conflicts requires inter-institutional collaboration, involving numerous stakeholders due to its complexity. As a result, the Land Dispute and Conflict Resolution Team (Tim Faseta) in Buleleng Regency was established based on Buleleng Regent Decree No. 100.3.3.2/42/Hk/2024. This team serves as the basis for conducting facilitation through maximum mediation efforts, aiming for a balanced or win-win solution, in accordance with the duties and authorities stipulated in the aforementioned decree.

The main functions of Tim Faseta include conducting physical, juridical, and administrative investigations of land that is the object of conflict or dispute, engaging in consultations and coordination meetings, and facilitating mediation. Upon completion, if a formal meeting report is produced, the team is required to report the outcome to the Regent.

Based on an interview with Mrs. Gusti Putu Astriani, it was revealed that the conflict arose due to land claims by a descendant of the heir, who previously refused to sign any documents during the land certification process initiated by the Buleleng Regency Government. The heir demanded compensation in the form of IDR 500,000,000 and one are (100 m²) of land located in front of SD Negeri 2 Sambangan, which is currently part of the school complex. However, these claims lack legal proof of land ownership, and the land has already been designated as a public facility (*fasilitas umum*, or *fasum*) belonging to SD Negeri 2 Sambangan.

The legal status of public facility land indicates that it is provided for communal use within residential or urban areas, such as parks or social amenities. Such land cannot be traded and is managed by the government or related institutions for public interest (Sitorus, 2020). Currently, the school has been registered under the Regional Apparatus Organization (SKPD) of the Department of Education, Youth, and Sports (Disdikpora) of Buleleng Regency. Coordination with the Regional Financial and Asset Management Agency (BPKPD) and the Housing and Settlement Area Office (Disperkimta) has been undertaken, and the matter is being processed through Tim Faseta. Meanwhile, the certification process is still ongoing at the National Land Agency (BPN) of Buleleng Regency.

Furthermore, according to the legal analysis by the Legal Division of the Buleleng Regency Secretariat during the resolution of the SD Negeri 2 Sambangan land issue on April 10, 2023, the Buleleng Regency Government cannot provide compensation to any party claiming ownership without legal proof and a court ruling. Any parties that threaten or endanger the safety of the school may be reported to the authorities in accordance with prevailing law.

Regarding the authority of land users, Soedikno Mertokusumo emphasized that the government, as the user of land rights, possesses special authority in accordance with the type of land right³⁰. This is also stipulated in Article 14 paragraph (3), letters (c) and (e) of Buleleng Regency Regional Regulation No. 6 of 2017 on Regional Assets, which states:

“(3) Users of assets as referred to in paragraph (1) are authorized and responsible for:

²⁶ A. P. Sigit, 'In Search of a Just and Equitable Agricultural Land Dispute Settlement in Indonesia.', *Brawijaya Law Journal*, 4.1 (2023), p. 67.

²⁷ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia: Sebuah Studi Tentang Prinsip-Prinsipnya, Penanganannya Oleh Pengadilan Dalam Lingkungan Peradilan Umum Dan Pembentukan Peradilan Administrasi Negara* (Bina Ilmu, 1987).

²⁸ A. S. Siregar, T. S., Lubis, I., & Harahap, 'Role of Local Wisdom in ADR in North Sumatra.', *ISVS E-journal*, 5.1, pp. 78–88.

²⁹ et al. Abdullah, M. A., 'Analysis of Customary Land Conflict Resolution Strategies...', *Journal of Law and Sustainable Development*, 5.2, pp. 67–78.

³⁰ Sudikno Mertokusumo, 'Penemuan Hukum Sebuah Pengantar. Yogyakarta: Liberty', *Yogyakarta: Liberty* (Liberty., 2007), p. 67.

- c. recording and inventorying regional assets under their control;
- e. securing and maintaining regional assets under their control.”

Accordingly, the government, as the user of the land, is obligated to register assets under its control. Although the land is designated as a public facility, Mrs. Gusti Putu Astriani, as the Asset Manager at Disdikpora Buleleng Regency, confirmed that the land of SD Negeri 2 Sambangan has not been included in the Land Inventory Card (KIB A). The school was originally an “Inpres” elementary school, constructed through a central government grant involving only the building, while the land was provided by the local village or community. Thus, Disdikpora has never recorded the land as a regional asset. To date, only the building and physical structures have been listed in the Building and Structures Inventory Card (KIB C), while the land is mapped and recorded by BPN Buleleng as public facility land.³¹

Despite efforts by the authorities, this issue illustrates the persistent weakness in the documentation and registration of land that has been utilized for public purposes. As further elaborated by Mr. Nyoman Budiarsana, Head of the Land Affairs Division at the Department of Housing, Settlement Areas, and Land Affairs of Buleleng Regency, the legal status of the land where SD Negeri 2 Sambangan is situated remains in a “block field” position. This means the land is still classified as “non-rights” land (*tanah non-hak*).

However, the National Land Agency (Badan Pertanahan Nasional/BPN) has already confirmed that, in terms of land use, the area functions as a public facility, specifically a school. This indicates that the primary and most likely party eligible to apply for land rights is the local government (Pemerintah Daerah), rather than private individuals. This is supported by historical records showing that the land was originally derived from inheritance grant division and has been marked in yellow by BPN, signifying its allocation for public facilities—thus, effectively transferring 50% of the land’s legal status to the local government.³²

Mr. Budiarsana also noted that, based on the information provided by the chairperson of the school committee—who is related to the claimant and thus part of the same inheritance group—there was expressed support for the certification process. It was acknowledged that the inheritance division had already taken place, and during this division, a portion of the land had indeed been allocated for school use. Therefore, this portion should no longer be subject to dispute or considered part of any ongoing land conflict.

Based on the current status, the Department of Housing, Settlement Areas, and Land Affairs (Disperkimta) has urged the Department of Education, Youth, and Sports (Disdikpora) to complete all necessary data to submit to the Regional Financial and Revenue Management Agency (Badan Pengelolaan Keuangan dan Pendapatan Daerah/BPKPD) of Buleleng Regency. This is to expedite the process of issuing a certificate of use rights (*sertifikat hak pakai*) for SD Negeri 2 Sambangan.

The steps that have been taken in the land registration process include an initial proposal from the school committee, in collaboration with the village government, addressed to the Regent of Buleleng, requesting the certification of SD Negeri 2 Sambangan land. The proposal was accompanied by a complete historical account and chronology of the land, which had already been acknowledged by relevant stakeholders.

Following this, the Buleleng Regency Government, upon receiving the proposal, submitted a formal certification request to the BPN Buleleng Office through the BPKPD. As confirmed by Mr. Made Pasda Gunawan, Head of BPKPD Buleleng Regency, in a statement on February 6, 2025, after a mediation session with the Faseta Team and submission of the application by Disdikpora, the BPKPD immediately coordinated with the Head of the BPN Office in Buleleng to initiate the land certification process under the name of the Buleleng Regency Government.

Consequently, the BPN would conduct a thorough examination of the proposal, coordinate with the BPKPD regarding supporting documents, and proceed with land measurement. This would be followed by a land hearing (*sidang*), and if no objections arise, the process would culminate in the issuance of a certificate of use rights (*sertifikat hak pakai*) in the name of the local government.

From the author’s observation, the non-litigation approach—specifically through mediation—has been effective, though not fully optimized. One reason for this is the inability of the claimant to present valid legal documents or proof of ownership, which is essential in any legal claim process. In accordance with legal norms, a valid claim requires clear and legally binding documentation to establish ownership rights. Without such documentation, the land claim cannot be legally recognized.

Therefore, the local government has made the decision to certify the land currently occupied by the elementary school. Given that the land is classified as non-rights and has already been designated as a public facility for educational purposes, this decision aims to provide legal clarity, prevent future disputes, and ensure uninterrupted educational activities at the school.

Nevertheless, while the government’s actions align with legal principles aimed at reducing conflict and ensuring legal certainty, a final and conclusive decision is still necessary to comprehensively resolve the issue. Such a decision is crucial to ensure that all involved parties—both the claimant and the government—can accept an outcome that is legally sound and equitable for all stakeholders involved.

5. CONCLUSION

The land conflict occurring in Buleleng Regency stems from inheritance claims over a parcel of land that has long been utilized as an educational facility by the local government. This use has persisted without formal legal documentation to substantiate ownership or a formal grant. The absence of written proof—previously based solely on verbal agreements—is exacerbated by historically weak land administration systems and a general lack of public awareness regarding the importance of legal land ownership.

The resolution of this dispute has faced significant obstacles, particularly due to the inability of the claimants to present valid legal evidence of ownership. Consequently, addressing this conflict necessitates a collaborative and synergistic approach involving the local government, village authorities, and other relevant institutions. In this context, a non-litigation pathway through mediation emerges as the primary alternative, as it is considered more efficient, expedient, and oriented toward mutually beneficial outcomes.

The Government of Buleleng Regency has established the Facilitation Team (Tim Faseta) through Regent Decree No. 100.3.3.2/42/Hk/2024 as an effort to mediate the dispute. From a legal standpoint, the conflict falls under the jurisdiction of the local government, which holds the authority to legalize land rights through the issuance of a right-of-use (*hak pakai*) certificate. Although various measures have been undertaken to de-escalate tensions, a final, binding, and equitable decision remains

³¹ Jan 2020 Sumber : Kantor ATR/BPN KabKlungkung dan DPUPR Prov. Bali, ‘Kantor BPN’.

³² Sumber : Kantor ATR/BPN KabKlungkung dan DPUPR Prov. Bali.

necessary to ensure legal certainty and social justice in the management and utilization of public assets.

REFERENCES

- Abdullah, M. A., et al. (n.d.). Analysis of customary land conflict resolution strategies. *Journal of Law and Sustainable Development*, 5(2), 67–78.
- Adhithia, T. F. (n.d.). *Perampasan aset tanpa pemidanaan (Komparasi negara Indonesia dan Australia)*.
- Amar Ma, M., Sary, N., & Bitu, S. G. (2021). Reforma agraria dan penanganan sengketa tanah. *Hermeneutika*, 5(1). <https://doi.org/10.33603/hermeneutika.v3i2>
- Bedner, A. (2019). Indonesian legal education, legal scholarship and legal research: An agenda for reform. *Asian Journal of Law and Society*, 6(1), 85–104. <https://doi.org/10.1017/als.2018.45>
- BPN. (2020). *Annual report of the National Land Agency of Indonesia*.
- Burns, T., Grant, C., Nettle, K., Brits, A., & Dalrymple, K. (2007). Land administration reform: Indicators of success and future challenges. *Land Use Policy*, 24(4), 637–647. <https://doi.org/10.1016/j.landusepol.2006.11.001>
- Cotterrell, R. (2006). *Sosiologi hukum: The sociology of law*. Nusamedia.
- Dewantara, K. H. (n.d.). *Pendidikan: Pemikiran, konsep, dan aktualisasi*. Taman Siswa.
- Syarief, E. (2014). *Menuntaskan sengketa tanah (Full)*. Kepustakaan Populer Gramedia.
- Fitzpatrick, D. (2007). Land, custom and the state in post-tsunami Aceh. *Singapore Journal of Tropical Geography*, 28(3), 253–269. <https://doi.org/10.1111/j.1467-9493.2007.00300.x>
- Harsono, B. (2003). *Hukum agraria Indonesia: Sejarah pembentukan UUPA, isi dan pelaksanaannya* (Vol. I). Djambatan.
- Harsono, B. (1999). *Hukum agrarian Indonesia: Sejarah pembentukan Undang-Undang Pokok Agraria, isi dan pelaksanaannya*. Djambatan.
- Hendro, E. (2021). Legal awareness and land registration in Indonesia: A socio-legal study. *Indonesian Journal of Law and Society*, 1(1), 101–120.
- Ketut, N., & Adnyani, S. (2021). Perlindungan hukum kesatuan masyarakat hukum adat dalam pengelolaan pariwisata berbasis kearifan lokal. *Media Komunikasi FPIPS*, 20(2), 70–80.
- Khalid, A., & Anshori, F. (n.d.). *Analisis yuridis tentang penyelesaian sengketa hak atas tanah akibat sertifikat ganda*. Universitas Islam Kalimantan Muhammad Arsyad Al-Banjari.
- Koeswahyono, I. (n.d.). *Hak menguasai negara: Perspektif Indonesia sebagai negara hukum*.
- Larasati, A., & Utami, R. (2022). Legal certainty in land ownership in Indonesia. *Jurnal Hukum & Pembangunan*, 52(1), 15–30.
- Friedman, L. (1989). The legal system. In *Legal culture and welfare state* (ed. W. de Gruyter, p. 23). Russell Sage Foundation.
- Lindsey, T. (2018). Legal infrastructure and governance reform in post-authoritarian Indonesia. *Bulletin of Indonesian Economic Studies*, 54(2), 129–148. <https://doi.org/10.1080/00074918.2018.1482465>
- Sumardjono, M. S. W. (2008). *Tanah: Dalam perspektif hak ekonomi sosial dan budaya* (1st ed.). Yayasan Obor Indonesia.
- Mertokusumo, S. (2007). *Penemuan hukum: Sebuah pengantar*. Liberty.
- Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat di Indonesia: Sebuah studi tentang prinsip-prinsipnya, penanganannya oleh pengadilan...* Bina Ilmu.
- Prodjodikoro, W. (1979). *Hukum perdata tentang hak atas benda*. Intermasa. Retrieved from <https://opac.perpusnas.go.id/DetailOpac.aspx?id=319197>
- Pujiriyani, D. W., & Puri, W. H. (2013). *Penanganan sengketa dan konflik pertanahan: Hasil penelitian strategis STPN 2013*. PPPM-STPN.
- Rosadi, O. (2012). *Qua vadis: Hukum ekologi dan keadilan sosial (dalam perenungan pemikiran filsafat hukum)*. Satjipto Rahardjo Institute.
- Sagala, S., Supriatna, M., & Afiff, S. (2021). Conflict over land and natural resources in Indonesia: A review of the literature. *Forest and Society*, 5(1), 152–166. <https://doi.org/10.24259/fs.v5i1.11309>
- Sari, N. L. A. (2021). Konsep hak menguasai negara terhadap tanah dalam hukum tanah (UUPA) dan konstitusi. *Ganec Swara*, 15(1), 991–998.
- Sigit, A. P. (2023). In search of a just and equitable agricultural land dispute settlement in Indonesia. *Brawijaya Law Journal*, 4(1), 67.
- Siregar, T. S., Lubis, I., & Harahap, A. S. (n.d.). Role of local wisdom in ADR in North Sumatra. *ISVS E-Journal*, 5(1), 78–88.
- Sumardjono, M. S. W. (2009). *Tanah dalam perspektif hak ekonomi, sosial dan budaya* (2nd ed.). Penerbit Buku Kompas.
- Kantor ATR/BPN Kab Klungkung & DPUPR Prov. Bali. (2020, January). *Kantor BPN*.
- Sutanto, H. (2021). The role of land certification in mitigating agrarian conflict in Indonesia. *Land Use Policy*, 104, 104880. <https://doi.org/10.1016/j.landusepol.2020.104880>

Legislation and Regulations

- The 1945 Constitution of the Republic of Indonesia. State Gazette of the Republic of Indonesia No. 75 of 1959.
- Law No. 5 of 1960 concerning Basic Agrarian Principles. State Gazette of the Republic of Indonesia No. 104 of 1960, Supplement to the State Gazette No. 2043.
- Presidential Instruction No. 10 of 1973 on the Development of Primary Schools.
- Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. State Gazette of the Republic of Indonesia Year 1999 No. 138, Supplement to the State Gazette No. 3872.
- Government Regulation of the Republic of Indonesia No. 37 of 1998 on Regulations Concerning the Official Duties of Land Deed Officials. State Gazette of the Republic of Indonesia Year 1998 No. 52, Supplement to the State Gazette No. 3746.
- Government Regulation of the Republic of Indonesia No. 28 of 2020 amending Government Regulation No. 27 of 2014 on the Management of State/Regional Property. State Gazette of the Republic of Indonesia Year 2020 No. 142, Supplement to the State Gazette No. 6532.
- Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 21 of 2020 on the Handling and Settlement of Land Disputes. Official Gazette of the Republic of Indonesia Year 2020 No. 1369.
- Regulation of the Minister of Home Affairs No. 47 of 2021 on Procedures for the Bookkeeping, Inventory, and Reporting of Regional Property.

