

Formalism of Authority and Agrarian Justice: Medan-Binjai Toll Road Land Dispute Analysis

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Abstract: This article examines whether the formalism of absolute jurisdiction in Decision Number 226/Pdt.G/2024/PN Mdn produced agrarian justice or instead delayed the examination of the substantive rights of communities claiming to control and cultivate land affected by land acquisition for the Medan-Binjai Toll Road project. The study analyzes the juridical position of physical possession and land cultivation without strong formal title within Indonesia's agrarian law framework, reconstructs the judges' legal reasoning in classifying the dispute as a government-action dispute, and evaluates the decision from the perspective of agrarian social justice and progressive law. This is normative legal research with a prescriptive and evaluative character, employing statutory, conceptual, case, and philosophical approaches. The findings show that the court's reasoning was procedurally valid in declaring an absence of jurisdiction based on the doctrine of *onrechtmatige overheidsdaad* and Supreme Court Regulation (PERMA) Number 2 of 2019, yet the examination never reached the substantive question of whether the plaintiffs' factual control and cultivation of the land carried juridical relevance within the land-acquisition regime. The article concludes that the decision was procedurally sound but substantively incomplete, because it resolved the forum question without adequately addressing the agrarian conflict at the core of the dispute.

1. Introduction

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This constitutional provision functions as a *das Sollen* – a normative ideal – that positions land not merely as an object that may be owned or traded, but as a strategic resource whose management must be directed toward the public interest, social welfare, and justice for all citizens.¹ This constitutional mandate is elaborated in Article 2 of Law Number 5

¹ Cisilia Maiyori and Devie Rachmat Ali Hasan, "Peran Negara Dalam Penguasaan Tanah Pada Pengembangan Investasi Di Provinsi Riau," *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum Dan Keadilan* 15, no. 2 (2024): 128-34, <https://doi.org/10.32493/jdmhkdmhk.v15i2.44585>.

of 1960 concerning Basic Agrarian Principles (the Basic Agrarian Law, or BAL), which affirms that the state's right of control is not absolute ownership but rather a public authority to regulate the allocation, use, supply, and maintenance of land, and to determine legal relationships between persons and land, for the greatest prosperity of the people. This principle is reinforced by Article 6 of the BAL on the social function of land rights, which, as Ismaya argues, reflects a synthesis between individual interests and social interests within an Indonesian agrarian legal system grounded in Pancasila.²

This *das Sollen* is meant to be realized in the practice of land acquisition for the public interest, as regulated under Law Number 2 of 2012, which requires proper and fair compensation to entitled parties as an embodiment of the balance between national development needs and the protection of communities' land rights.³ The principles of humanity, justice, certainty, openness, and harmony underlying land acquisition affirm that compensation must not be understood merely as economic substitution, but also as a form of legal protection that balances public interest against individual interest.

The *das Sein* – the empirical reality – however, presents a markedly different picture. Recent research by Rosmidah and colleagues records that agrarian conflicts linked to infrastructure projects in Indonesia rose sharply, from 212 cases in 2022 to 241 cases in 2023, indicating that compensation mechanisms in practice have yet to satisfy the demands of substantive justice.⁴ That study shows that the expanded post-reform meaning of “public interest” in the land-acquisition regime, including for National Strategic Projects, has weakened proportionality, shifting compensation from full restitution of community losses toward a limited replacement of physical assets alone.⁵ A parallel finding emerges from Valencia and colleagues' analysis of Surabaya District Court Decision Number 1090/Pdt.G/2023/PN Sby, which concludes that inconsistencies in compensation for land acquisition in Indonesia originate from a formalistic interpretation that privileges administrative documentation over the recognition of substantive rights, thereby generating horizontal conflicts between registered titleholders and actual physical possessors.⁶ This gap between the legal ideal and practical reality is the point of departure for the present study.

The tension between formal legality and the reality of land control becomes especially pronounced in the context of large-scale infrastructure development. On one hand, Indonesia's land-registration system treats the certificate as strong evidence of the physical and juridical data of land rights, as affirmed by Article 32 paragraph (1) of Government Regulation Number 24 of 1997 on Land Registration.⁷ On the other hand, the evidentiary force of a certificate is not absolute; it remains situated within the negative-publication system adopted by Indonesian land law, such that judges generally still assess a certificate's consistency with the facts of possession, the history

² Samun Ismaya, “Kajian Teoritik Dualisme Kepentingan Dan Fungsi Sosial Hak Atas Tanah,” *Wicaksana: Jurnal Lingkungan Dan Pembangunan/WPLR* 4, no. 2 (2025): 243–70, <https://doi.org/10.38156/wplr.v4i2.318>.

³ Roy Frike Lasut, “Pelaksanaan Bentuk Ganti Rugi Atas Tanah Menurut UU No. 2 Tahun 2012 Tentang Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum,” *Lex et Societatis* 1, no. 4 (2013): 118–28, <https://doi.org/10.47679/ib.2023436>.

⁴ Rosmidah et al., “Public Interest, State Control, and Proportional Compensation: Constitutional Tensions in Indonesia's Land Acquisition Regime,” *Indonesia Private Law Review* 7, no. 1 (2026).

⁵ Rosmidah et al., “Public Interest, State Control, and Proportional Compensation.”

⁶ M. Valencia et al., “Compensation Inconsistencies in Land Acquisition for Public Interest in Indonesia,” *Journal of Court and Justice* 5, no. 1 (2026).

⁷ Ati Yuniati, “Kekuatan Sertifikat Sebagai Alat Bukti Dalam Penyelesaian Sengketa Tanah,” *Jurnal Cendekia Hukum* 2, no. 1 (2017): 12–23, <https://doi.org/10.24967/jcs.v2i1.64>.

of title acquisition, and other evidence presented.⁸ In practice, a considerable number of communities – particularly farmers, customary-law communities, and other vulnerable groups – have long occupied or cultivated land without a complete certificate or title document, leaving agrarian law confronted with the necessity of reconciling administrative legal certainty with protection for the lived social reality of land control.⁹

A number of recent studies have mapped this tension from several angles. At the constitutional level, research on the expanding meaning of public interest shows that the proportionality of compensation is increasingly squeezed by the logic of investment and national strategic projects.¹⁰ At the micro-judicial level, case studies of district-court decisions reveal that the identification of entitled parties is frequently reduced to a matter of administrative documentation alone, overlooking four interrelated factors: divergent legal interpretations regarding eligible recipients, inadequate transparency in appraisal procedures, a structural mismatch between formal requirements and the realities of informal land transactions, and weak oversight combined with low public legal literacy.¹¹ At the level of cassation review, a study of Supreme Court Decision Number 3762 K/Pdt/2022 finds that the first-instance and appellate courts tended to adopt a progressive approach by privileging material truth, whereas the Supreme Court applied a rigid legal-positivist paradigm, protecting the formal validity of the certificate without testing the substantive validity of its acquisition process – a pattern the researchers regard as sacrificing the rights of the most vulnerable party.¹²

In the realm of procedural law, the debate over the absolute jurisdictional boundary between the general courts and the administrative courts in handling unlawful acts by government bodies and/or officials (*onrechtmatige overheidsdaad*) has likewise been extensively studied. PERMA Number 2 of 2019 expressly transfers jurisdiction over such cases from the district courts to the administrative courts.¹³ Yet research by Sulaeman and colleagues identifies a normative vacuum and regulatory disharmony surrounding this jurisdictional boundary, particularly where the government acts in a dual capacity – as a public body and simultaneously as a private legal subject – such that Indonesia’s prevailing institution-based competence model is assessed as less effective than the substance-based model of government action adopted in several comparator jurisdictions.¹⁴ Further research by the same authors finds empirically that limitations within the administrative courts – including special administrative prerequisites, restrictions on the forms of compensation available, and constraints on the enforcement of judgments – often compel justice-seekers to con-

⁸ Raja Agung Kusuma Arcaropoboka, Ratna Kumala Sari, and Toni Mahasan, “Kekuatan Hukum Sertifikat Hak Atas Tanah Sebagai Alat Bukti Terhadap Pembuktian Hak Milik Tanah (Studi Putusan Pengadilan Negeri Kota Agung Nomor: 12/Pdt.G/2014/Pn.Kot),” *Audi Et AP: Jurnal Penelitian Hukum* 2, no. 2 (2023): 79–89, <https://doi.org/10.24967/jaeap.v2i02.2385>.

⁹ Aditama Candra Kusuma and Al Fath, “Implementasi Reforma Agraria Dalam Pengadaan Tanah Untuk Kepentingan Umum,” *Batavia* 2, no. 1 (2025): 37–46, <https://doi.org/10.64578/batavia.v2i1.149>.

¹⁰ Rosmidah et al., “Public Interest, State Control, and Proportional Compensation.”

¹¹ M. Valencia et al., “Compensation Inconsistencies in Land Acquisition.”

¹² A. Ardiansyah et al., “Evidentiary Strength of Land Ownership Certificates: An Analysis of Judicial Considerations in Supreme Court Decision Number 3762 K/Pdt/2022,” *SIGn Jurnal Hukum* 7, no. 1 (2025).

¹³ Yunico Syahrir, “Politics Legal Regulation of the Supreme Court of the Republic of Indonesia (Perma RI) Number 2 of 2019 as a Guideline for Suits for Unlawful Acts Against Government Agencies And/Or Officials,” *International Journal of Social Science and Human Research* 7, no. 3 (2024).

¹⁴ E. Sulaeman et al., “Reconstruction of the Absolute Competence of Civil Courts in the Settlement of Unlawful Acts by the Government in Indonesia,” *Journal of Cultural Analysis and Social Change* 10, no. 1 (2025).

tinue pursuing remedies through the general courts, even where jurisdiction has formally been transferred.¹⁵ Other scholarship confirms that judicial review of factual government acts by the administrative courts still requires proof of an element of loss under Article 53 paragraph (1) of the Administrative Courts Law, meaning that a shift in forum does not automatically guarantee substantive examination of the losses citizens allege.¹⁶

At the philosophical level, the idea of progressive law introduced by Satjipto Rahardjo continues to be developed as a critical framework against agrarian-law formalism. Mahfud formulates several characteristics of progressive agrarian law, including an orientation toward agrarian justice that addresses inequality in resource control through affirmative measures, and an openness for law enforcers to engage in *rule breaking* against regulations that risk producing injustice, so long as the orientation remains toward substantive justice.¹⁷ Consistent with this, other scholarship affirms that progressive law is not meant to dispense with procedural order, but rather to ensure that such order still opens a genuine path for examining the substance of the concrete conflicts communities face.¹⁸

Although these three strands of inquiry – constitutional-policy, micro-judicial, and jurisdictional-competence – have developed largely in isolation from one another, scholarship that specifically brings all three together in reading a single decision remains scarce. Krismantoro explicitly notes that prior research on land acquisition has tended to focus narrowly on procedural or administrative aspects, frequently overlooking the broader dimensions of normative justice and institutional coherence.¹⁹ In a similar vein, most readings of land-acquisition disputes that terminate at the absolute-jurisdiction stage tend to remain confined to the technical-procedural debate over the proper judicial forum, without further tracing how halting examination at the exception stage affects the fate of the substantive agrarian claims that communities have raised.

The research gap addressed here lies in the absence of analysis that specifically assesses whether the formalism of absolute jurisdiction in land-acquisition cases produces a deficit of agrarian justice for subjects claiming a genuine relationship with the disputed land, by reading a single decision simultaneously through three lenses ordinarily examined in isolation: agrarian law (the standing of physical possession absent formal proof), administrative law (the validity of the absolute-jurisdiction construction), and agrarian social justice/progressive law (a normative evaluation of the consequences of halting examination). The novelty of this study lies in a critical reading that situates Decision Number 226/Pdt.G/2024/PN Mdn not merely as a jurisdictional ruling, but as a meeting point among these three legal domains, in order to test whether procedural correctness of forum correlates with – or in fact runs counter to – the fulfillment of substantive agrarian justice.

On this basis, the study is structured around three research questions: first, what is the juridical standing of physical possession and land cultivation unsupported by formal title within the

¹⁵ E. Sulaeman et al., "Controversy on the Absolute Competency of Civil Courts in Investigating Unlawful Actions Committed by the Government in Indonesia," *Journal of Law and Sustainable Development* 11, no. 2 (2023).

¹⁶ "Implikasi Yuridis Mengenai Kebijakan Perluasan Kompetensi PTUN Dalam Pengujian Tindakan Faktual," *Semarang Law Review (SLR)* 6, no. 1 (2025).

¹⁷ Muhammad Mahfud, "Progressive Agrarian Law as a Concept to Attain Social Justice," *Pandecta Research Law Journal* 17, no. 1 (2022).

¹⁸ Sigit Pratama Maulu et al., "Agrarian Dispute Resolution Institution as a Manifestation of Progressive Legal Transformation," *YUDHISTIRA: Jurnal Yurisprudensi, Hukum dan Peradilan* 5, no. 1 (2025).

¹⁹ D. Krismantoro, "Evaluating the Justice Framework in Land Acquisition: Legal and Policy Review of Government Regulation No. 39/2023 in Indonesia," *Khazanah Hukum* 7, no. 1 (2025).

regime of land acquisition for public-interest development under Indonesian agrarian law; second, how do the judges in Decision Number 226/Pdt.G/2024/PN Mdn construct their legal reasoning in classifying the dispute as a government-action dispute and declaring the District Court without jurisdiction; and third, whether the formalism of absolute jurisdiction in that decision produced an agrarian-just resolution, or instead deferred examination of the substantive rights of communities claiming to control and cultivate the land. This study aims to answer these three questions in turn, with the ultimate goal of formulating a prescriptive assessment of how the law should better protect communities affected by public-interest development, without disregarding the importance of orderly jurisdictional boundaries.

The urgency of this research lies in the fact that land-acquisition disputes are not merely a matter of procedural order in development, but also raise a fundamental question of who the law recognizes as a subject deserving protection when land becomes the object of a public-interest project. When a court decision halts at the question of forum without reaching the merits, there is a risk that the agrarian dimension of the dispute is reduced to a purely administrative matter, leaving the law unable to respond to the social reality of land control that lies at the root of the conflict on the ground.

2. Method

This study is normative legal research with a prescriptive and evaluative character, designed to critically examine the legal standing of land control, the basis of possession, formal proof of title, and the status of “entitled party” within land acquisition for public-interest development, with particular emphasis on Decision Number 226/Pdt.G/2024/PN Mdn. Normative legal research was chosen because the issues analyzed center on the norms, principles, concepts, and legal constructions governing the relationship between agrarian law, government administrative law, and the protection of land rights in the context of public-interest development. The research focus is directed not only at the procedural conformity of land-acquisition implementation, but also at a critical assessment of whether the legal formalism applied in the decision aligns with the demands of agrarian social justice, particularly for subjects who genuinely possess or cultivate land yet lack strong formal title.

This study employs four approaches. **First**, the statutory approach, examining laws and regulations directly relevant to the research issue—principally the 1945 Constitution, the Basic Agrarian Law, Law Number 2 of 2012 on Land Acquisition for Development in the Public Interest as amended under the post-Job Creation Law regime, Government Regulation Number 19 of 2021 as amended by Government Regulation Number 39 of 2023, Government Regulation Number 24 of 1997 on Land Registration, and PERMA Number 2 of 2019. This approach traces the normative basis governing land rights, land control, the determination of entitled parties, land-acquisition mechanisms, and the jurisdictional boundaries of courts examining disputes arising from government action in the land sector.

Second, the conceptual approach, drawing on doctrine, scholarly opinion, and legal concepts developed in legal science, particularly concerning land rights, physical possession, the basis of possession, formal proof of title, agrarian social justice, legal protection, and progressive law. This approach is necessary because issues in land-acquisition disputes cannot always be resolved through a textual reading of positive norms alone, but must also be analyzed through conceptual

constructions to understand how the law positions the relationship between administrative legality and the social reality of land control.

Third, the case approach, examining the relevant court decision – principally Decision Number 226/Pdt.G/2024/PN Mdn – as the primary object of research. This approach is used to reconstruct the decision's *ratio decidendi*, to assess the judges' reasoning in framing the dispute as a matter of absolute jurisdiction, and to test whether halting examination at the forum stage foreclosed any assessment of the substance of the legal relationship between the plaintiffs and the disputed land.

Fourth, the philosophical approach, used to examine the underlying value foundations of the regulation and application of law in land-acquisition disputes, particularly concerning justice, utility, rights protection, and the social function of land. Through this approach, the study assesses whether a dispute resolution that halts at the formalism of absolute jurisdiction remains defensible from the perspective of agrarian social justice and progressive law.²⁰

The legal materials used consist of primary and secondary sources. Primary legal materials comprise relevant legislation – the 1945 Constitution, the Basic Agrarian Law, Law Number 2 of 2012 and its amendments, Government Regulation Number 19 of 2021 as amended by Government Regulation Number 39 of 2023, Government Regulation Number 24 of 1997, PERMA Number 2 of 2019, and Decision Number 226/Pdt.G/2024/PN Mdn. Secondary legal materials include books, journals, scholarly articles, and doctrine addressing land rights, land control, land registration, land acquisition, agrarian social justice, and progressive law, including recent literature published between 2024 and 2026 that updates the academic debate on this issue. Legal materials were collected through library research by inventorying, identifying, and classifying all materials according to their relevance to the research problem.²¹

All legal materials were analyzed qualitatively through the inventory of norms, conceptual construction, reconstruction of the *ratio decidendi*, and critical evaluation of the decision from the perspective of agrarian social justice. The analysis examines the consistency between agrarian and administrative-law norms and the legal facts reflected in the decision, then tests whether a resolution oriented around absolute jurisdiction has adequately addressed the substantive question of the relationship between factual control, the basis of possession, formal proof of title, and the status of entitled party in land acquisition. In this way, the study does not stop at describing norms and the decision, but proceeds to formulate a prescriptive assessment of how the law should provide fairer protection to communities affected by public-interest development.²²

3. Results

Examination of Decision Number 226/Pdt.G/2024/PN Mdn shows that the case originated from the plaintiffs' claim to control and cultivate approximately 13,117 square meters of land lo-

²⁰ Romi Librayanto et al., "Penataan Kewenangan Mahkamah Konstitusi Dalam Memperkuat Independensi Kekuasaan Kehakiman," *Amanna Gappa* 27, no. 1 (2019): 43–66, <https://doi.org/10.20956/ag.v27i1.7312>.

²¹ Muhammad Anggi, Puti Priyana, and R Bagus Irawan, "Efisiensi Etika Bantuan Hukum Dalam Berprofesi Terhadap Integritas Hukum Indonesia," *Dharma Yuda Jurnal* 5, no. 2 (2025): 47–54, <https://doi.org/10.35706/djd.v5i2.10769>.

²² Yati Nurhayati, Ifrani, and M Yasir Said, "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penelitian Hukum Indonesia* 2, no. 1 (2021): 1–20, <https://ojs.bdproject.id/index.php/jphi/article/view/14>.

cated on Jalan Kawat III Gang Padi, Lingkungan XVIII, Tanjung Mulia Hilir Subdistrict, Medan Deli District, City of Medan. The plaintiffs asserted that the land was genuinely controlled and cultivated by them, relying on letters of physical possession, statements regarding cultivated land, statements of land compensation, agreements transferring cultivated land, and statements from community members. They further claimed that this control reflected a factual relationship passed down through generations since approximately 1920, principally for rice cultivation – land that, in their view, was not merely a physically occupied object but a livelihood base socially and economically attached to themselves and their families.²³

The dispute arose when the claimed land became part of the route for the Medan–Binjai Toll Road. The plaintiffs argued that although their land had been used for toll-road construction, they had not received proper compensation for either the land or the crops growing on it. In the construction of their claim, the losses suffered consisted not only of the loss of land control but also the loss of agricultural produce they had long cultivated. The plaintiffs sought recognition of ownership, a declaration that the defendants had committed an unlawful act, and payment of substantial material and immaterial damages.²⁴

The defendants constructed a fundamentally different narrative. According to the defendants, the land claimed by the plaintiffs had already been identified within the land-acquisition administrative mechanism as part of plots originating from the former Certificate of Ownership Number 213/Tanjung Mulia Hilir, which had been subdivided into a number of plots and entered into the land-parcel map and the nominative list for the toll-road acquisition. Compensation for some plots had already been paid to parties listed in the nominative list who could produce the original certificate, while compensation for other plots had been deposited with the court through a consignment mechanism.²⁵ On this basis, the defendants rejected the plaintiffs' claim to be entitled parties for compensation, asserting that the land-acquisition process had followed the stages prescribed by law – from inventory and identification, to the determination of the nominative list, the communication of compensation values, deliberation over the form of compensation, and, where necessary, the consignment of compensation to the court.

Before the substance of land control could be examined, the defendants and several co-defendants filed an exception of absolute jurisdiction, arguing that the case was, in essence, not an ordinary civil dispute but a dispute arising from a government action in the course of land acquisition for public-interest development, such that the proper forum was the State Administrative Court rather than the District Court. This exception was supported by reference to PERMA Number 2 of 2019 concerning Guidelines for the Settlement of Disputes over Government Action and Authority to Adjudicate Unlawful Acts by Government Bodies and/or Officials (*onrechtmatige overheidsdaad*), as well as Law Number 30 of 2014 on Government Administration and the legal formulation of the administrative chamber under Supreme Court Circular Letter (SEMA) Number 2 of 2019.²⁶

The panel of judges at the Medan District Court accepted this line of argument. Pursuant to Article 160 of the RBg/Article 134 of the HIR, the exception of absolute jurisdiction was consid-

²³ "Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn" (2024), 8–10.

²⁴ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 12–15.

²⁵ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 12–15.

²⁶ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 149–150.

ered and decided before the merits of the case. The judges concluded that the substance of the dispute concerned an alleged unlawful act by the defendants connected to land-acquisition activities for the construction of the Medan-Binjai Toll Road, and accordingly characterized the case as a government-action dispute rather than an ordinary dispute over ownership or civil rights. The judges' reasoning expressly referred to Article 2 paragraph (1) of PERMA Number 2 of 2019, which affirms that cases involving unlawful acts by government bodies and/or officials fall under the jurisdiction of the administrative courts, as well as Article 11 of the same PERMA, which requires a district court to declare itself without jurisdiction in such cases. The panel also cited Supreme Court jurisprudence affirming that where the defendant is an administrative body or official and the disputed object relates to an action within that official's authority, the proper forum is the State Administrative Court.²⁷

The direct consequence of this reasoning was that the panel did not proceed to examine the substance of the land dispute. The plaintiffs' claim was declared inadmissible—not because the judges concluded that the plaintiffs definitely lacked entitlement, and not because the defendants were found definitively correct on the merits, but solely because the Medan District Court was deemed without jurisdiction to examine and adjudicate the case. The operative part of the decision merely granted the exception of absolute jurisdiction, declared the District Court without jurisdiction, and ordered the plaintiffs to bear the costs of the proceedings.²⁸

Because the case was decided at the stage of the absolute-jurisdiction exception, a number of important matters were never further examined. The decision did not assess the evidentiary weight of the letters of physical possession, the statements regarding cultivated land, the statements of land compensation, or the community statements submitted by the plaintiffs. Nor did the decision assess whether the alleged facts of control and cultivation, if proven true, carried juridical relevance within the land-acquisition regime, and it left unanswered whether the plaintiffs could be positioned as entitled parties or at least as parties with a relevant legal interest. All of these questions remained open because the court halted its analysis at the question of jurisdiction—a pattern consistent with Valencia and colleagues' finding that formalistic interpretation in land-acquisition disputes tends to privilege administrative completeness over the substantive testing of the real legal relationship between subject and land.²⁹

4. Discussion

4.1 The Juridical Standing of Physical Possession and Land Cultivation Without Formal Title Within the Land-Acquisition Regime

Within Indonesia's agrarian-law framework, land rights, physical possession, the basis of possession, and the certificate are interrelated concepts that cannot be equated with one another. A land right is a legal relationship conferring authority on a legal subject to control, use, and derive benefit from land according to the type of right recognized by legislation; it therefore belongs to

²⁷ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 149–151.

²⁸ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 151.

²⁹ M. Valencia et al., "Compensation Inconsistencies in Land Acquisition."

³⁰ Mohamad Da'i Efendi, "Penguasaan Hak Atas Tanah Yang Belum Bersertipikat," *Notaire* 3, no. 3 (2020): 391–93, <https://doi.org/10.20473/ntr.v3i3.22834>.

the juridical realm rather than to mere factual occurrence on the ground. Physical possession, by contrast, is the condition in which a person genuinely occupies, cultivates, uses, or maintains a parcel of land, and is therefore primarily a material fact.³⁰

Indonesian agrarian law does not equate physical possession with a fully perfected right, yet it continues to recognize possession as a legally relevant fact. This is evident in Article 24 paragraph (2) of Government Regulation Number 24 of 1997, which essentially provides that where complete written evidence is unavailable, the registration of a right may proceed on the basis of factual physical possession of a parcel of land for twenty years or more, consecutively, provided that such possession was exercised in good faith, openly as an entitled party, corroborated by the testimony of credible persons, and uncontested by the customary-law community, village, or other parties. Physical possession is therefore not itself a right, but may constitute an important element in the process by which a right is formed and proven under law.³¹

The basis of possession, meanwhile, is the foundation explaining why a person controls land, whether through written evidence, a history of transfer, witness testimony, or a statement by the party concerned, within the limits set by law. This is affirmed in Article 24 paragraph (1) of Government Regulation Number 24 of 1997, which states that for registration purposes a land right is proven by written evidence, witness testimony, and/or a statement by the party concerned, the degree of truth of which is deemed sufficient to register that right.³² Where written evidence is unavailable, Article 76 paragraph (3) of the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 requires a statement from the applicant explaining that the land has been genuinely controlled for twenty years or more, exercised in good faith, never contested, and not subject to dispute. Only once this process of proof and registration has been satisfied does a certificate arise as a document of proof of title within the meaning of Article 32 paragraph (1) of the same Government Regulation.³³ The certificate must therefore be understood as the end result of a process of proof and registration, not as the sole form of legal truth from the outset.

Possession without formal title within Indonesian land law occupies the position of a fact of control, not automatically a land right. Article 4 of the Basic Agrarian Law affirms that, on the basis of the state's right of control, various rights over the surface of the earth—land—are established and may be granted to and held by persons, individually or jointly, as well as by legal entities—a formulation showing that a land right arises within a juridical construction determined by law, not by physical possession alone.³⁴ Practice in the formal recognition of customary land likewise shows that possession living within a community is not automatically recognized as a registered right, since land administration requires clarity as to the subject of the right, the object of the right, and the underlying legal relationship.³⁵ Physical possession, accordingly, can only be positioned as a starting point for proof, not as final evidence that a right has been born.

³¹ Audry Zefanya and F X Arsin Lukman, "Tolak Ukur Pemenuhan Penguasaan Fisik Atas Tanah Melalui Surat Pernyataan Penguasaan Fisik Bidang Tanah," *Jurnal USM Law Review* 5, no. 2 (2022): 445–49, <https://doi.org/10.26623/julr.v5i2.4878>.

³² Ledy Wila Yustini, "Kekuatan Hukum Sertifikat Hak Atas Tanah Yang Pendaftarannya Secara Sporadik Berdasarkan PP No. 24 Tahun 1997," *Justicia Sains: Jurnal Ilmu Hukum* 7, no. 2 (2022): 386–403, <https://doi.org/10.24967/jcs.v7i2.1984>.

³³ Ledy Wila Yustini, "Kekuatan Hukum Sertifikat Hak Atas Tanah."

³⁴ I Gusti Nyoman Guntur, "Ragam Pengakuan Formal Terhadap Penguasaan Tanah Adat Di Indonesia," *Tunas Agraria* 6, no. 2 (2023): 93–109, <https://doi.org/10.31292/jta.v6i2.215>.

³⁵ I Gusti Nyoman Guntur, "Ragam Pengakuan Formal Terhadap Penguasaan Tanah Adat."

Within the context of land acquisition for public-interest development, this construction carries the important consequence that the focus of the law must not stop at the question of whether a person already holds a certificate, but must extend to whether that person may be positioned as an entitled party or, at minimum, as having a relevant legal interest in the affected land. A certificate does provide strong evidentiary standing, yet the law of land acquisition is fundamentally aimed at providing proper and fair compensation to subjects who bear a legally relevant relationship to the land taken.³⁶ This understanding aligns with Krismantoro's recent evaluation of Government Regulation Number 39 of 2023: although that regulation improves the procedural structure and institutional roles within land acquisition, it remains limited in addressing structural injustices, particularly concerning forced displacement, customary-land claims, and access to legal remedies – meaning the category of “entitled party” cannot be reduced solely to certificate holders.³⁷

Such an approach is important so that land acquisition does not become trapped in administrative formality that excludes parties genuinely affected. In many cases, a subject who does not yet hold a certificate may still demonstrate a legal relationship or basis of possession worthy of consideration, while a certificate holder, though in a stronger evidentiary position, is not automatically the sole subject whose standing forecloses claims by others.³⁸ Determining the entitled party requires careful examination of the subject of the right, the object of the land, the basis of possession, the history of control, and the actual losses arising, so that compensation genuinely reflects substantive justice rather than mere formal certainty.

The dispute in the present case should not be read narrowly as merely a question of which party presents superior formal evidence before the court, but must be understood as a more fundamental conflict between *legal title*, rooted in formal juridical legitimacy, and *factual control*, rooted in genuine possession, actual use, and a continuing factual relationship with the disputed land. A similar tension appears in Ardiansyah and colleagues' study of Supreme Court Decision Number 3762 K/Pdt/2022, which finds that the first-instance and appellate courts tended to privilege material truth grounded in physical possession and inheritance rights, while the Supreme Court at the cassation level reverted to a paradigm of purely formal legality without testing the substantive validity of the certificate's acquisition process – a pattern the researchers regard as reducing legal certainty to mere procedural formality and betraying the law's objective of achieving substantive justice in agrarian disputes.³⁹ The same pattern is visible in the present case: certificates and other formal documents remain important instruments of proof, but their existence does not automatically foreclose the relevance of facts of control on the ground, particularly where there exists a long-standing, open history of possession exercised in good faith and acknowledged – or at least uncontested – within the local social context.

A consequence of the legal construction adopted by the panel of judges is that Decision Number 226/Pdt.G/2024/PN Mdn never reached the substantive dimension of the agrarian dispute

³⁶ Milawati Paputungan, Nur M Kasim, and Sri Nanang M Kamba, “Pemberian Ganti Rugi Dalam Pengadaan Tanah Akibat Pembangunan Bendungan Waduk (Kasus Di Kabupaten Bolaang Mongondow),” *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora* 1, no. 2 (2024): 22–33, <https://doi.org/10.62383/humif.v1i2.75>.

³⁷ D. Krismantoro, “Evaluating the Justice Framework in Land Acquisition.”

³⁸ Lerri Pattra, Nurhasan Ismail, and Richo Andi Wibowo, “National Strategic Projects and Compensation Issues in Land Acquisition in Indonesia: A Justice Theory Perspective,” *Jurnal Hukum Dan Peradilan* 14, no. 1 (2025): 1–28, <https://doi.org/10.25216/jhp.14.1.2025.1-28>.

³⁹ A. Ardiansyah et al., “Evidentiary Strength of Land Ownership Certificates.”

that was, in fact, the center of the parties' disagreement. Once the panel classified this case as a government-action dispute falling within the category of *onrechtmatige overheidsdaad*, and therefore within the absolute jurisdiction of the State Administrative Court, the examination stopped at the level of forum. The court no longer assessed whether the plaintiffs – who claimed to have controlled and cultivated the land across generations and grounded their claim in letters of physical possession, cultivated-land documents, compensation letters, and community statements – held an agrarian standing that was legally relevant to the disputed land.

Accordingly, the category of entitled party within the land-acquisition regime must be understood carefully and not reduced solely to certificate holders. Law Number 2 of 2012 and its implementing regulations essentially position the entitled party as a subject who controls or owns the object of land acquisition and is therefore entitled to compensation, so that the legal question does not stop at whether a certificate exists, but extends to whether a person can demonstrate an accountable legal relationship to the land, buildings, crops, or other objects connected to the land affected by acquisition.⁴⁰ On this basis, a person unable to prove formal ownership of land is not necessarily entirely cut off from the legal-protection regime in land acquisition, so long as that person can demonstrate a basis of possession, a history of cultivation, the existence of crops or economically valuable objects, and a continuing factual relationship with the land in question.

4.2 The Construction of the Judges' Legal Reasoning in Classifying the Dispute as a Government-Action Dispute

Normatively, the panel of judges had a sufficiently strong foundation when classifying the government-action dispute as falling within the jurisdiction of the administrative courts. This construction follows from developments in government administrative law that have expanded the scope of administrative-court disputes, particularly following the enactment of Law Number 30 of 2014 on Government Administration and its implementing arrangements in judicial practice. Syahrir affirms that the issuance of PERMA Number 2 of 2019 created a new legal situation and new legal consequences, namely that cases of unlawful acts by government bodies/officials, previously within the jurisdiction of the general courts, are now expressly assigned to the State Administrative Court.⁴¹ This view is reinforced by other research tracing the policy of expanding administrative-court competence to test factual government acts following the enactment of the Government Administration Law, which concludes that PERMA Number 2 of 2019 consistently transfers district-court jurisdiction over claims based on Article 1365 of the Civil Code against government bodies/officials to the administrative-court domain.⁴²

In Decision Number 226/Pdt.G/2024/PN Mdn, the panel of judges halted at the construction of *onrechtmatige overheidsdaad* because the object disputed by the plaintiffs was understood not as an ordinary private legal relationship, but as the consequence of an action by a government

⁴⁰ Jordan Valentino, "Agrarian Reconstruction and Implementation of the Basic Agrarian Law (UUPA) in Realizing Social Justice in Indonesia," *International Journal of Law Analytics* 3, no. 4 (2025): 359–70, <https://doi.org/10.59890/ijla.v3i4.107>.

⁴¹ Yunico Syahrir, "Politics Legal Regulation of the Supreme Court."

⁴² I Gusti Ngurah Wairocana et al., "The Expansion of Administrative Decision Meaning Based on Government Administration Law: A Dispute Submission Process Approach," *Jurnal Magister Hukum Udayana* 8, no. 1 (2019): 13–33, <https://doi.org/10.24843/JMHU.2019.v08.i01.p02>.

body and/or official in the course of land acquisition for the construction of the Medan–Binjai Toll Road.⁴³ On the basis of this classification, the panel relied on Article 2 paragraph (1) of PERMA Number 2 of 2019, which affirms that cases of unlawful acts by government bodies and/or officials fall under the jurisdiction of the administrative courts, and Article 11 of the same PERMA, which requires a district court to declare itself without jurisdiction where such a case is still before it.⁴⁴ From a procedural standpoint, the decision demonstrates the judges' consistency with the principle of dividing absolute jurisdiction between the general courts and the administrative courts, grounding their reasoning in Article 160 of the RBg/ Article 134 of the HIR, which obliges a judge, even *ex officio*, to declare a lack of jurisdiction where the case examined does not fall within the absolute competence of the district court.

On one hand, this construction cannot simply be regarded as mistaken. From the standpoint of orderly absolute jurisdiction, the panel of judges in fact demonstrated adherence to a judicial-system design that clearly distinguishes ordinary civil disputes from disputes arising from the actions of government bodies and/or officials. Halting examination at the level of jurisdiction is not a form of disregard for the law, but rather a manifestation of the principle of forum legality, ensuring that a dispute is examined by the judicial environment deemed appropriate under positive law.

Nevertheless, the strength of this procedural argument does not automatically eliminate the substantive problem arising from the present case. Research by Sulaeman and colleagues expressly identifies a normative vacuum and regulatory disharmony surrounding the jurisdictional boundary between the general courts and the administrative courts, particularly where the government acts in a dual capacity as both a public body and a private legal subject, such that Indonesia's current institution-based competence model is assessed as less responsive than the substance-based model of government action applied in several comparator jurisdictions.⁴⁵ Further research by the same authors empirically finds that limitations within the administrative courts – including special administrative requirements, restrictions on the type and amount of compensation available, limited adjudicatory authority, and constraints on the enforceability of judgments – often compel justice-seekers in practice to continue pursuing remedies through the general courts where the loss suffered is personal and concerns citizens' property, even though jurisdiction over such cases has formally been transferred to the administrative courts.⁴⁶ This finding is relevant to the present case, since the plaintiffs' claims likewise centered on personal losses concerning land and agricultural produce, rather than solely on testing the legality of the administrative action itself.

Furthermore, research on the expansion of administrative-court competence to test factual acts finds that such review still requires proof of an element of loss under Article 53 paragraph (1) of the Administrative Courts Law, meaning that factual acts of government will not be challenged absent clear proof of loss.⁴⁷ This provision indicates that a shift of forum to the State Administrative Court does not automatically guarantee that the substance of the losses alleged by the plaintiffs – including the loss of land control and of agricultural produce cultivated across generations – will be examined on an equal footing with what would occur in the general courts, given that proceed-

⁴³ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 149.

⁴⁴ Putusan Pengadilan Negeri Medan Nomor 226/Pdt.G/2024/PN Mdn, 150.

⁴⁵ E. Sulaeman et al., "Reconstruction of the Absolute Competence of Civil Courts."

⁴⁶ E. Sulaeman et al., "Controversy on the Absolute Competency of Civil Courts."

⁴⁷ "Implikasi Yuridis Mengenai Kebijakan Perluasan Kompetensi PTUN."

ings before the administrative courts are oriented toward testing the legality of administrative action rather than toward a comprehensive assessment of the civil relationship between subject and land.

If this is so, the next question is no longer simply whether the Medan District Court was procedurally correct in declaring itself without jurisdiction, but shifts to a more fundamental question: whether this formalism of absolute jurisdiction also produces an agrarian-just resolution, or instead merely relocates substantive examination without any guarantee that such examination will genuinely take place on an equal footing in the forum deemed competent.

4.1 Absolute-Jurisdiction Formalism and Agrarian Social Justice

Article 33 paragraph (3) of the 1945 Constitution affirms that the state's control over land must not be understood merely as an administrative authority to regulate, but as a constitutional mandate ensuring that the distribution of agrarian benefits proceeds fairly, proportionately, and toward the general welfare. Accordingly, every resolution of a land dispute, including one arising from a public-interest development project, must remain situated within a framework protecting the people's rights to land as a source of livelihood, rather than within a framework of procedural order alone.

A critical question that must be posed is whether the District Court's halting of examination genuinely closed off testing of the substance of the dispute, or merely relocated that testing to the forum deemed competent under law – the State Administrative Court. In theory, once a dispute is classified as a government-action dispute, the substance of the relationship between the citizen and the administrative action may still be examined, only through a different forum. Yet recent empirical data give reason for skepticism toward this optimism. Rosmidah and colleagues record that agrarian conflicts linked to infrastructure projects rose from 212 cases in 2022 to 241 cases in 2023, a trend indicating that existing dispute-resolution mechanisms – whether in the general courts or the administrative courts – have not effectively answered the demands of substantive justice for affected communities.⁴⁸ Consistent with this, Maulu and colleagues' study of agrarian dispute-resolution institutions finds that forum-based litigation mechanisms, whether before the General Courts or the State Administrative Court, frequently fail to deliver swift, fair, and inclusive resolution owing to procedural rigidity, high cost, and low public trust – leading those researchers to propose the establishment of an alternative dispute-resolution institution specifically designed for the distinctive character of agrarian disputes.⁴⁹

From this vantage point, the core issue may shift from the question of whether the District Court judge erred, to the question of whether a dispute-resolution design that sharply separates the civil forum from the administrative forum is sufficiently responsive to the distinctive character of agrarian disputes. In land-acquisition cases, the conflicts that arise are often neither purely administrative nor purely civil, but instead bring together government action, the status of land rights, the basis of possession, and claims of social justice within a single chain of dispute that resists rigid separation. Criticism of the present decision should therefore be directed not solely at

⁴⁸ Rosmidah et al., "Public Interest, State Control, and Proportional Compensation."

⁴⁹ Sigjit Pratama Maulu et al., "Agrarian Dispute Resolution Institution."

an error in the application of procedural law, but at the reality that an overly formal forum design may prevent substantive agrarian claims from receiving timely and adequate examination.

From the perspective of agrarian social justice, the formalism of absolute jurisdiction in Decision Number 226/Pdt.G/2024/PN Mdn may indeed be assessed as procedurally correct, given that the panel placed the dispute over an unlawful act by a government body and/or official within the domain of the State Administrative Court. From the standpoint of agrarian justice, however, a resolution that halts at the determination of forum does not by itself deliver justice in full. Land, within an agrarian framework, is not understood merely as an object subject to formal registration, but also as a basis of livelihood, a source of production, a social space, and a support for the continued existence of the communities that genuinely control and cultivate it. Where a case is terminated at the stage of absolute jurisdiction without ever reaching examination of the plaintiffs' alleged control and cultivation, the resulting decision risks more strongly safeguarding administrative order than addressing the substance of the agrarian conflict that is the alleged source of loss.

In this article, progressive law is not invoked to justify disregarding the rules of absolute jurisdiction, but rather as an analytical instrument to assess whether the legal system provides an effective path for examining the substance of justice. Mahfud formulates several characteristics of progressive agrarian law relevant here: a commitment to agrarian justice oriented toward addressing inequality in resource control through affirmative measures, an emphasis on the importance of conscience in lawmaking and law enforcement, and particular attention to vulnerable groups living in poverty and experiencing structural injustice.⁵⁰ Consistent with this, other scholarship on the judge's role in progressive law enforcement affirms that a judge must not follow procedural justice alone, but must also pursue substantive justice, since law is created to meet the needs and feel the suffering of the people, not to exist in a vacuum detached from social reality.⁵¹ The measure of progressiveness in the present case, accordingly, does not lie in whether the judges should have forced themselves to examine the merits despite an improper forum, but in whether the application of jurisdictional rules still preserves the parties' access to a genuine examination of the agrarian claims they have raised.

From this perspective, the central problem of Decision Number 226/Pdt.G/2024/PN Mdn does not lie solely in the panel's choice to observe the boundary of absolute jurisdiction, but in the juridical consequence that arises when case resolution stops at forum-screening and does not proceed to an assessment of the core agrarian dispute alleged by the plaintiffs. The present decision may be regarded as valid and correct within the logic of procedural justice, yet remains problematic when measured against substantive justice.

As shown in Syamsudin's study of the Magersari land dispute, a decision may satisfy formal-procedural requirements without fully reflecting substantive justice if it fails to probe broader foundations, including the legal values living within the community, doctrine, and the social dimension of the human relationship with land.⁵² In the present dispute, the panel did not proceed

⁵⁰ Muhammad Mahfud, "Progressive Agrarian Law as a Concept to Attain Social Justice."

⁵¹ Sri Hartanto, Indah Sri Utari, and Ridwan Arifin, "Implementation of Penal Mediation in the Perspective of Progressive Law (Study at the Semarang City Police Department)," *Indonesian Journal of Criminal Law Studies* 4, no. 2 (2019): 161-88, <https://doi.org/10.15294/ijcls.v4i2.21494>.

⁵² Muhammad Syamsudin, "Keadilan Prosedural Dan Substantif Dalam Putusan Sengketa Tanah Magersari: Kajian Putusan Nomor 74/PDT.G/2009/PN.YK," *Jurnal Yudisial* 7, no. 1 (2014): 18-33, <https://jurnal.untan.ac.id/index.php/jfh/article/view/80962>.

to examine the legality of the origin of acquisition, the continuity of possession, good faith, or the relevance of the plaintiffs' factual control within the structure of agrarian law, such that the court never reached an assessment of whether their claim deserved recognition, rejection, or at least adequate examination in a forum that engages the substance of the conflict.

The present decision may therefore be regarded as not yet fully reflecting agrarian social justice – not because every community claim of control must automatically be vindicated or protected without verification, but because such a claim has never been adequately tested in a forum that genuinely engages the substance of the agrarian conflict. Criticism of this decision must be situated proportionately: not as a rejection of orderly absolute jurisdiction, but as an affirmation that procedural order alone is insufficient to deliver agrarian justice in full. The resolution of agrarian disputes should not stop at the determination of forum, but must open a path for genuine examination of actual control, the basis of acquisition, the continuity of use, and the socio-economic position of affected parties. Absent such examination, the law risks appearing more as an instrument validating administration than as a means of correcting potential inequities in the implementation of development.

5. Conclusion

Decision Number 226/Pdt.G/2024/PN Mdn shows that, procedurally, the panel of judges placed the case within what was deemed the correct framework of absolute jurisdiction, by classifying the dispute as a government-action dispute falling within the domain of the State Administrative Court. From the standpoint of orderly procedural law, this reasoning may be understood as consistent with the division of authority between judicial environments and with the application of PERMA Number 2 of 2019. Nevertheless, this procedural correctness does not by itself resolve the core agrarian dispute raised by the plaintiffs, since the court never examined whether the plaintiffs' physical possession, cultivation of the land, basis of possession, and factual relationship with the disputed object carried juridical relevance within the regime of land acquisition for public-interest development.

From the perspective of Indonesian agrarian law, physical possession and land cultivation unsupported by formal proof of title do not automatically give rise to a land right, yet neither can such possession be treated as a fact entirely devoid of legal value. Agrarian law continues to leave room for such possession to be tested through the origin of acquisition, good faith, the continuity of possession, and its conformity with the system of proof and land registration. Accordingly, in the context of land acquisition, the determination of the entitled party should not be reduced solely to certificate holders, but must also consider whether there exists a subject who genuinely bears a legal relationship, or at least a relevant legal interest, in land taken for the public interest. It is precisely at this point that the present decision leaves a gap, since the question of whether the plaintiffs held an agrarian standing worthy of consideration was never given substantive examination.

Regarding the construction of the judges' legal reasoning, this study concludes that the classification of the dispute as *onrechtmatige overheidsdaad* under PERMA Number 2 of 2019 rests on a valid normative foundation consistent with developments in government administrative law since reform. Yet certainty of forum does not automatically guarantee equally substantive examination of the personal losses alleged, given that proceedings before the State Administrative Court are

oriented toward testing the legality of administrative action and are bound by the requirement of proving an element of loss – potentially leaving insufficient room for a comprehensive examination of the civil relationship between subject and land.

On this basis, the formalism of absolute jurisdiction in the present decision has not yet fully reflected agrarian social justice. This assessment does not imply that the judges were automatically wrong in applying procedural law, nor that every community claim of control must be immediately vindicated. The central problem lies in the fact that halting the case at the forum stage deferred examination of the substantive rights of communities claiming to control and cultivate land as the basis of their livelihood. The decision is therefore valid within the logic of procedural justice, yet remains problematic when measured against substantive justice, because it never opened a genuine examination of the relationship between formal legality, actual control, and the distribution of the burdens of development.

This study offers three recommendations. First, technical guidelines for judges of the State Administrative Court should be strengthened so that, once jurisdiction over a case is transferred from the general courts, substantive examination of claims of factual control continues to be conducted on an equal footing, rather than stopping at the legality testing of formal administrative action alone. Second, further harmonization is needed between PERMA Number 2 of 2019 and the provisions on entitled parties under Law Number 2 of 2012, so that a shift of forum does not result in the loss of any opportunity for substantive examination for physical possessors lacking strong formal proof. Third, going forward, the resolution of land-acquisition disputes requires an approach that does not stop at correcting the forum, but also guarantees an effective, comprehensive, and just mechanism for examining the agrarian claims that live socially and factually within communities – consistent with proposals for an alternative agrarian dispute-resolution institution more responsive to the distinctive character of agrarian conflict in Indonesia.

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