

**T E S I S**

**PENYELESAIAN SENGKETA HIBAH ATAS  
TANAH ULAYAT KAUM  
DI NAGARI TALAOK KECAMATAN BAYANG  
KABUPATEN PESISIR SELATAN**

Disusun Sebagai Salah Satu Syarat Untuk Menyelesaikan

Program Studi Magister Kenotariatan



Oleh

**NUR MUHAMMAD HAIKAL**

NIM. 1620123067

Dosen Pembimbing

1. Prof.Dr.Busyra Azheri, SH., M.Hum
2. Dr.Yussy Adelina Mannas, SH., MH

**PROGRAM MAGISTER KENOTARIATAN  
PASCA SARJANA UNIVERSITAS ANDALAS  
PADANG  
2020**

## **PENYELESAIAN SENGKETA HIBAH ATAS TANAH ULAYAT KAUM DI NAGARI TALAOKE KECAMATAN BAYANG KABUPATEN PESISIR SELATAN**

Nur Muhammad Haikal, 1620123067, Program Studi Magister Kenotariatan Pascasarjana Fakultas Hukum Universitas Andalas Padang 2020, 139 halaman

### **ABSTRAK**

Sengketa pertanahan menjadi masalah mendasar di Sumatera Barat, hal tersebut karena adanya pengakuan yang kuat atas tanah ulayat kaum di Sumatera Barat, tidak jarang permasalahan tanah berakhir dengan sengketa di Pengadilan. Sengketa Pertanahan didominasi oleh konflik hak milik, konflik hak ulayat maupun sengketa perjanjian atas peralihan hak atas tanah ulayat. Salah satunya adalah hibah tanah, baik tanah hak milik maupun hak atas tanah ulyat. Kurang tegasnya aturan hibah atas tanah hak ulayat di Sumatera Barat juga memicu timbulnya sengketa, karena tidak diakomodirnya hak ulayat sebagai objek pendaftaran tanah, sehingga perbuatan hibah tanah ulayat kaum kurang menjamin kepastian hukum sesuai aturan agraria di Indonesia. Sengketa hibah tanah di Kecamatan Bayang muncul karena banyak faktor diantaranya, objek hibah adalah tanah ulayat kaum, nilai ekonomis tanah, semakin tinggi jumlah penduduk, tingginya kebutuhan akan tanah, sipenghibah memberikan keseluruhan tanah ulayat kaum dan tanah ulayat tersebut dihibahkan tanpa sepenuhnya anggota kaum, serta belum tertampungnya pengaturan hibah atas tanah ulayat kaum, diantaranya kasus Sengketa Hibah Atas Tanah Ulayat Kaum di Nagari Talaok Kecamatan Bayang Kabupaten Pesisir Selatan. Metode yang digunakan penulis bersifat deskriptif, yaitu menggambarkan fakta dan kenyataan tentang hibah tanah hak ulayat kaum di Nagari Talaok, dengan analisis pendekatan hukum normatif. Penelitian ini menggunakan pendekatan yuridis empiris yaitu melakukan penelitian dengan penekanan penerapan payung hukum hibah berupa Undang – Undang, Peraturan Pemerintah, Peraturan Menteri, Peraturan Kepala Badan Pertanahan Nasional dan Peraturan lainnya. Data yang dikumpulkan berupa data primer, diperoleh dari pihak terkait dalam penghibahan tanah dilokasi penelitian, data sekunder diperoleh dari bahan hukum sekunder, bahan hukum primer dan bahan hukum linier. Hibah tanah ulayat kaum menjadi sumber utama sengketa tanah di nagari Talaok Kecamatan Bayang, karena banyak hibah tanah diberikan secara lisan dan tidak didaftarkan. Penyelesaian sengketa hibah tanah ulayat kaum dapat dilakukan melalui Litigasi dan Non Litigasi, diantaranya konflik hibah tanah ulayat kaum diselesaikan secara non litigasi, melalui mediasi oleh Kerapatan Adat Nagari Talaok, dan penyelesaian secara litigasi di Pengadilan Agama Painan.

Kata Kunci: HIBAH, SENGKETA HIBAH, TANAH ULAYAT KAUM, PENYELESAIAN SENGKETA

**THE RESOLUTION OF DISPUTES OVER THE PEOPLE'S ULAYAT LANDS IN NAGARI TALAOKE  
SUBDISTRICT OF BAYANG, PESISIR SELATAN REGENCY**

*Nur Muhammad Haikal, 1620123067, Postgraduate Notary Master Study Program, Faculty of Law Andalas University Padang 2020, 139 pages.*

**ABSTRACT**

*Land disputes are becoming a fundamental problem in West Sumatera, this is due to strong recognition of ulayat land in West Sumatera. These land problems often end up in court. Land disputes are dominated by property rights conflict, customary rights conflicts and disputes of agreements over the transfer of rights to ulayat land. One of them is land grants, both freehold and ulayat land rights. The lack of strict rules on grants for ulayat land rights in West Sumatra has also triggered the emergence of disputes, because ulayat rights are not accommodated as objects of land registration, so that the act of granting ulayat lands less guarantee the legal certainty according to Indonesian agrarian regulations. The land grant dispute in Bayang District occurred because of many factors such as, the object of the grant was the ulayat clan land, the economic value of the land, the higher the population, the high demand for land, the grantee gave the entire ulayat clan land, and the ulayat land was granted without the knowledge of the clan members and the arrangement of grants for ulayat clan land has not been accommodated. For instance, the case of a dispute over land grants for ulayat land in Nagari Talaok, Bayang Subdistrict, Pesisir Selatan Regency. The method used by the writer is descriptive, which describes the facts about the land grant for the ulayat rights of the people in Nagari Talaok, with an analysis of the normative legal approach. This research uses an empirical juridical approach, namely conducting research with an emphasis on the application of the legal framework of grants in the form of laws, government regulations, ministerial regulations, regulations of the head of the National Land Agency and other regulations. Data collected in the form of primary data, it was obtained from related parties in granting land at the research location, secondary data obtained from secondary legal materials, primary legal materials and linear legal materials. Ulayat clan land grants are the main source of land disputes in the village of Talaok, Bayang District, because many land grants are given verbally and are not registered. Settlement of ulayat clan land grant disputes can be carried out through Litigation and Non Litigation, including conflict over ulayat clan land grants resolved non-litigation, through mediation by Kerapatan Adat Nagari Talaok, and litigation settlement at the Painan Religious Court.*



*Keywords : GRANTS, GRANTS DISPUTE, ULAYAT CLAN LAND, DISPUTE RESOLUTION*

