

**THE SETTLEMENT OF DISPUTE ON PLANTATION RIGHT THROUGH NON  
LITIGATION APPROACH**

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**ABSTACT**

*For that it need to survey deeply how to solve the dispute of plantation land for getting exact formulation in its settlement. This study purposes three main problems. This research attempts to explain the transitional policy of agrarian politics, especially on plantation in the Dutch period until the Old Order governmental era and entering into New Order governmental until Reformation era and explain the settlement dispute on plantation by non litigation way. Method is which used in this dissertation research is adaptation approach with it's sociology. Within non-doctrinal law studies and interaction approach by qualitative analyses. The conclusion of this research shows that plantation dispute emerge continually because of continuing the transition time in agrarian policy since the Dutch era until Reformation era, for finding the formulation of effective and efficient settlement with non litigation way.*

*Key Word : Settlement, Non Litigation, Transitional Situation*

## 1. Introduction

Disputes over land often occur in many places throughout Indonesia, both in the outer villages and urban areas, because the land supply will not increase while the number of people will continue to grow each day. Thus the disputes over land will never end, even going to increase continually hand in hand with the population growth itself. [1] A wide variety of land disputes will emerge from time to time, starts from a dispute over rights, land tenures disputes and other kinds of disputes. Those disputes often take place between the indigenous communities, communities and government, communities with non-governmental institutions, even between the communities themselves. So, it is very urgent to find the dispute settlement format. The disputes over land actually is not a problem relate with the land itself, it is a competition to win over the rights for using the land. The rights could be the right to cultivate, right to property, right to ownership, and others. The rising of land disputes on this last decades actually is a continuing disputes that never been solved. During the Dutch administration in Indonesia, land is the most prominent commodity for the imperialist at that time.

When the Dutch left Indonesia and Japan replaced their position as a new imperialist, the land problem still cannot be resolved completely until early independence period. From the Old Order regime until being replaced by the New Order regime, the former plantation land owned by the Dutch still leaves unfinished problems. Entering Post-New Order period, the social changes emerge accompanied with big euphoria in various fields. At the same time, there are some changes also in people's behavior towards land followed by awareness for land ownership claims that was always failed before due to the pressure from the New Order regime.

In the history of land ownership, Indonesia has experienced at least five stages of transitional periods, which are:

1. When the Dutch left Indonesia and Japan became the new invader, land ownership arrangement experiencing an initial phase of arrangement because the rules and land procurement still in the name of the Dutch while at the same time Indonesia has already colonized by Japan. On this period the bulk of the former Dutch plantation land occupied by Japan and the arrangement has not been finished completely because Japan stayed in Indonesia only for 3.5 years.
2. At the time of independence, the arrangement of the former Dutch plantation land controlled by the "martial law" in collaboration with local people to work together on former plantation land, so there is no certainty about the arrangement of land ownership rights.
3. At the time of Act 1960 enactment: In this period, the arrangement of land ownership right is done based on the law that has been determined by Indonesian government, including the "Land Reform" object in the year "64 SK/49/KA/64 about the redistribution of land to benefit the villagers who live around the plantation land. And the 1965 turmoil has emerged when the land arrangement has not been solved completely, which then leaves the question of the land arrangement behind.
4. In the regime transition, from the Old Order to New Order era, land problems emerge because the legal land ownership is doing forcefully by those in power to those who are considered as communists. So the land arrangement on the New Order era cannot give justice for the people at that time. But the people keep silence due to the pressure from the security guards on the basis of national stability. In the Post- New Order era, the problems of the citizens who feel deprived at the New Order appears on the surface, so that more than 50 % of plantation land area in Indonesia, particularly in Blitar suffering turmoil where the people demands their ownership rights that have been seized by the New Order restored [2].

In Blitar (where this research is conducted) there are 22 plantation areas (both public and private areas), there are 16 plantations that categorized as problematic areas (dispute areas). They demand the return of working rights and ownership rights as well as redistribution of land to the surrounding communities. This claim is motivated by several factors, such as legal, political, social, economic, historical, and so on.

## 2. Research Questions

The process of transition of social and political system in Indonesia since the days of the Netherlands colonization period until the transition to the Old Order impacted on the national agrarian law and politics, in the plantation sector is no exception, sparking disputes over land ownership rights in various areas in

Indonesia's plantation particularly of land. In the changing process of political and social system from the era of Old Order into the New Order government, the conflict of plantation rights remained unresolved. New Order regime responded the agrarian disputes through an authoritarian methods of government. The government even employed a policy of land grabbing to the land which were previously in the status of conflicts between the farmers and plantation corporation. Thus, the problems emerged. There is problem of law uncertainty with regard the status of the plantation land ownership.

There are three basic questions that are going to be addressed on this research. First how does the law uncertainty cause plantation land disputes both before and after independence? Second how does the law uncertainty inflict disputes over the plantation rights in the New Order and Post New Order era? And Third, how to settle the land disputes by non-litigation methods, especially through mechanisms of negotiation, mediation and conciliation?

### 3. Research Methods

This research uses the mixed methods between critical discourse analysis and field research. The discourse analysis is done by doing some studies on the library and collecting relevant documents about the field. The field research is conducted in the plantation areas, and there are totally about 16 troublesome plantation areas in Blitar where this research is conducted.

### 4. THE RESULTS

#### 1. Problem Of Agrarian Reform On The Transitional Period Between Pre And Post-Independence

In the pre-independence period, the agrarian policy developed is colonial agrarian policy, which puts the colonies became a source of wealth of the colonial state. In the colonial period, it can be said that the land policy issue is fully injustice. People's lands are forcibly grabbed and peoples are enforced to be farmers to plant the ordered spices. On this period, the turbulent struggle that is conducted by the Indonesian people starts.

The colonial period begins with the Governor General Mr. Herman Willem Daendels in the year 1808-1811. During that time, the land is sold to people who have large capitals to get benefit crops for the Chinese, Arabic and Dutch. The sold land is called "*partikelir* land". This practice produces new landlords who oppress the people more.

The next colonial period starts when Raffles (1811-1816) introduced his theory that is found at the time, namely "*Domein Theory*". The agrarian problems start getting proper attention. That time is considered as the first milestone of agrarian history in Indonesia. According to the *domein* theory and principle, the government can seized all of the land without any border in the name of public interest.

Fourteen years since the Dutch comes back into power, then in 1830 the Governor-General Van Den Bosch implement what he called as *Cultuurstelsel*, or the cultivation system, with the aim of helping the Netherlands whose financial is in a bad state. The land becomes government's land and the village chief is considered as a lender, then the village chief lends it to the farmers. On this basis, the main purpose of *cultuurstelsel* is that the owner of the land will no longer need to pay *landrente* (2/5 of the result), but 1/5 (one-fifth) of the land should be planted with certain crops ordered by the government.

In the *Cultuurstelsel* period, liberal movement emerges in the field of agrarian, aiming to:

(1) In order for the government to give recognition for the land grabbing as the absolute property rights (*eigendom*), to allow the sale and leasing. Because, land under customary communal rights or powers, cannot be sold or rented out.

(2) Therefore, with the domain theory, the government provides the opportunity for private entrepreneurs to be able to lease the land for long-termed with low-price.

Minister Van De Putte regime falls because he is considered as too hasty by giving *eigendom* rights to indigeneous people, while the intricacies of Indonesian land has not been known completely. Therefore in the year 1867/1866, the colonial government conducts a study on the rights of land of the Javaese people which carry out in 808 villages across Java.

As the result from the study, the Agrarische Wet, 1870 is out, which is promulgated in the State Gazette (Statute no. 55, 1870. The provisions on it and its implementations are set in the various regulations and decisions. One of the most important decisions is what is known as "*Agrarisch Besluit* " promulgated in Gazette No. 118.1870. Article 1 of this *Besluit Agrarisch* contains an important statement which has been

recognized as "*Domein Verklaring*", which states that, all of the land that cannot be proven as the absolute property rights (eigendom), is a "domain of the state" (the state domain means the absolute state-owned).

The principle of the domain is clearly not recognize the existence of customary rights and ownership rights of the Indonesian people over the land, because the people of Indonesia at that time do not have written proof, so that matter is a pretext for the colonial authorities to take people's lands that cannot be proven as private ownership, so this is very detrimental to the public policy of Indonesia. This law essentially protects the interests of the colonial interests for cultivated crops with a large profit for the international market.

From the condition above, it appears that the enactment of law dualism, that are customary- agrarian law together with the western agrarian law in Indonesia. Thus, the lands which are subjected to customary agrarian law are as customary land, the foundation land, business land, and *gogolan* land, whereas the lands which are subjected to the western agrarian law are the eigendom land, *erfpacht* land, *Opstal* land, etc. With those two kinds of land rules then arise the confusion in the application of the law to Indonesian land at that time. [3]

The colonial agrarian policy causes the emergence of law uncertainty which results in the emergence of a dispute between colonial rulers with the indigenous people who have mastered and used the land previously. *Verklaring* domains is a form of land tenure which is done by the Dutch colonial government, while the land *erfpacht* (the plantation in the Dutch period) appears as a form of colonial government investment by taking the customary lands and opening the forest lands to be planted with spices.

Japan became the new colonist who accepts the conditions of the former plantation land that is not clear. During the reign of Japanese occupation, there are not many rules made relating with land. However, it does not mean that at that time there was no concern at all about the legal issues related to land; oppositely the problem of land is considered as important issues that needed serious attention and study.

The only thing that is set directly on the matter of land is Act No. 17 of 2602 (1942) which applies starting on June 1, 1942 on the Amendment of State -land into Private -land. Private land is an *Eigendom* land which derives from the *Dutch Gubernemen* at the time *Oost Indische Compagnie* is given to the high employee *Gubernemen* or which sold to ordinary people in order to get money to cover the *Gubernemen* deficit cash. With that political strategy, the private landlords beside getting full ownership rights, also getting the state-privilege on a broadly land. Generally, there are two kinds of private lands, namely "*Kongsi Land*" and "Enterprises Land". "*Kongsi Land*" is part of private land that is controlled directly by the landlord, while the "Enterprise Land" is land that belongs to the people.

The abolition of private land into state land in the days of the Japanese occupation government do not bring a better effect for the people because the obligation of the people to the landlords still applied. The difference is that in the past the obligations given to the landlord, while at the Japan period, the landlord is Dai Nippon army.

Nearly two and a half centuries, feudalism and colonialism create the poverty and oppression. Poverty and oppression become the impetus for the birth of ideas and nationalism movement in Indonesian independence era to get rid the elements of the Dutch East Indies colonial state which consists of the combined interests of the feudal and foreign capitalists, followed by the creation of social order. In this framework, the key word is "revolution", which is a rapid and radical change to change the overall structure of the old social order towards a new social order that is providing social justice for all the people. Therefore, in the name of Indonesian, Soekarno and Hatta announce the Indonesian Independence on 17 August 1945 to become a Republic state. [4]

In order to filling the void of Indonesian state law, then a rule on the transitional rules of Article 2 of the Constitution in 1945 which states that: "all the bodies of power and the rules that have not been replaced with new ones still remain in force". Therefore, the colonial legal system remain valid as long as no new rules governing the same provisions to regulate people's behavior, including in this case is about the agrarian law in Indonesia at that time. Such conditions encourage lawyers to immediately terminate the existence of the colonial law, because the urgency of change and reform of the legal system in Indonesia with a new legal order.

The founders of the Republic of Indonesia has been realized since the beginning (they have learned from various developed countries), programs of development, especially in favor of the people at large, needs to be grounded in advance with the realignment of the land issues, before far reaching

industrialization. That is why, despite the age of the Republic of Indonesia which is still very young, in 1948, Indonesia have started to form agrarian committee to think seriously about land issues.

To destroy the foreign private economic power, particularly the Dutch dominance, Sukarno stipulates the Government Regulation in Lieu of Law (PERPU) on Nationalization of Dutch Companies which are located in Indonesian's territory (Law No. 86/1958, LN, 1958, No. 162). This law was reinforced and continued in the form of various Government Regulations.

In Verse 1, Government Regulation No. 2 In 1959, LN, 1959, No. 5 on the Principles of Implementation of the Nationalization Law of the Dutch Companies states, that, all of the Dutch companies can be nationalized, which include company-owned Dutch individuals, legal entities whose shares are wholly or partly owned by the Dutch, a company incorporated in Indonesia and companies locate in Indonesia which are owned by legal entities whose reside in the Netherland. As a result of the law on nationalization, nationalization policies appear, at the level of implementation of the regulations.

Fifteen years after the independence, precisely on the 24th September of 1960, the government issues Act No 5 of 1960 concerning Basic Regulation on Agrarian Principles, which then famously known as UUPA. The emergence of UUPA required a long process of roundtable discussions and committees, which starts since the beginning of the independence of Indonesia. At the beginning, the discussion on this issue began from the committee of Agrarian Affairs Yogyakarta in 1948, and then continues to the Jakarta Committee in 1951. It also includes the Committee of Suwahjo (1956), Plan of Sunarjo (1958) , and finally Plan of Sadjarwo (1960). UUPA was essentially the project of land reform which adopts a popular model of land distribution. The new Act was also regarded as being the criticisms of previous agrarian law which has been considered as impartial to the interest of the people.

Two years after the enactment of the law, especially in 1962, the government of *Orde Lama* introduced a new project of *Land Reform* as the implementation of UUPA of 1960. This new program was scheduled to be held in 1962 to 1965. According to the project, government was planning to redistribute the land to the people in two stages. The first stage of redistribution plan included the land in Java, Madura, Bali and Nusa Tenggara islands. In the second stage, the plan was conducted for the other regions and islands of Indonesia. The whole redistribution plan was expected to complete in three to five years.

Land Reform, which was introduced during the presidency of Sukarno, has brought to the rise of civil society movement, especially from the farmers and farm workers, inquiring the social justice from the redistribution of the land. The leftish movement was becoming the largest civil society organization agitating masses to trail the rights of farmers and farm workers on their land. Another issue which is central to the farmers and farm workers are the rights to the ownership of land. This led to the conflict between farmers against landlords and rich farmers. The rise of agrarian conflicts has forced the government to take actions to prevent long disputes on the land. [5]

Throughout the presidency of Sukarno, we can briefly summarize the agrarian politics of the regime. The policy of land reform constitutes the populist agenda of the regime. Some scholar said that the idea of land reform were the manifestation of the ideology of *Marhaenism* which stands for the Sukarno's plea for peasants. This policy was also in line with Sukarno's alliance with Communist Party of Indonesia (PKI) in the forming of government and all the policy formulation. However, many of government settlement mechanism were failed due to various reasons such as below:

- a) The lengthy process of policy making has led to the government failures to resolve conflict. After the end of the *Orde Lama* regime, many agrarian issues were left unresolved.
- b) Forceful petition from leftish organizational movement has led to the anarchy situation, whereby the government could not control the conflict.
- c) Various efforts, either litigation or non litigation methods, made by the status quo parties who were trying to make the process of land reform ended in failure.
- d) Conflicts between the parties in support of the land reform versus the status quo parties at the grassroots were the result of conflicts between elite at the state level.

Nevertheless the collapse of the regime in 1967, after the tragedy of coup d'état of 1965, has led to the termination of government effort to redistribute the land. The rise of Suharto to the presidency also brought a new change in the policy directions of government. The new President of Indonesia, which in the future will continue to establish as the regime of *Orde Baru*, introduced the policy of *developmentalism* which has strong roots in the international agenda of capitalism. In contrast to the policy of land reform, Suharto

directions in agrarian policy show a strong support for the ownership of the land by giant corporations for the objectives of developing Indonesian economics.

## 2. *Agrarian Conflict and Settlement of Dispute of Plantation Land During the era of New Order and Reformation Era.*

During the regime of New Order, the main reason behind the agrarian conflict was the Land Grabbing action by the government towards people's rights. Land Grabbing was a common practice by the regime to support the program of development which was enacted since the beginning of the era. Various methods were conducted to support the land grabbing project in order to transform farmers land into the government plantation area. Several methods employed by the regime such as legal formal approach, approaches to they key person in the area of land grabbing, divide and rule methods, manipulation, isolation of the land from access from outside visitors [6], and through the black campaigning methods. Other reasons behind the conflict of land were the social disparities, ownership of the land, and the lack of social responsibility from the government plantation corporation.

The government of New Order managed to respond agrarian disputes by way of 'centralistic authoritarianism' style in the governing process. There are several things that proclaimed by the New Order in accordance with the agrarian policy:

1. Land Reform is just a mere technical problem, the New Order does not make it as the basic of substantial development.
2. Remove all the legitimate participation of farmer organizations on the land reform program.
3. Implementation of the floating mass policy before the election in 1971 by cutting the rural masses relationship with political parties. The organization of political parties should not have branches to district and village. The government forms the farmer organization, namely the HKTI.
4. The enactment of Law No. 5 of 1979 on village government, making the villages lose dynamics participation on democratic political process.
5. The involvement of police and military elements on the supervision of village development.

The weakening of the legislative and judicial powers, the blunt political parties and civic organizations, as well as the destruction of local political institutions in the New Order era is the form of the New Order government's efforts to separate the people from their rights over agrarian resources. The growth of capital, under the facilitation of the State are rapid and intensively change the structure of land tenure in Indonesia. Therefore, it results in the raise of sharp and deep conflicts, that are inevitable accompanied by the growth of the capital movement itself and accompanied by the rise of unequal land tenure structure.

The New Order government on agrarian policy take the path of what is known as a by-pass approach, or a shortcut approach, namely the Green Revolution without Agrarian Reform (RH without RA). Therefore, the development in Indonesia by foreign observers referred to as a development without social transition. [7]

By-pass approachis applied to carry out a development strategy which is characterized by a fundamental characteristic, relying on foreign aid for forestry and plantation sector and foreign investment based on large investors (betting on the strong).

As a result of the by-pass approach, the agrarian disputes do not subside, but blooming everywhere, in all sectors and regions, and involving all levels of society. The results of food self-sufficiency are not long-lived.

The dispute issues thmselves are varied including arbitrary eviction, the compensation issues, location permit issues, indigenous rights issues, and others, while special plantation disputes arise due to: [8]

- a) The policy of maintaining and promoting the plantation sector to increase foreign exchange is creation of a structure that crippled the procurement of land in Indonesia, and large plantations become the part of inequality-forming elements.
- b) The dispute between the people and plantation companies as a result of the State Land claims, as happened in the overview of existing cases.
- c) Other disputes that often occur are aboutthe granting concession to the farming companies for many years over land that claimed automatically by a number of concerned companies relating with the nationalization of foreign plantations in the 1950s.

- d) The dispute over land could happen because the government is not consistent, even tend to ignore a number of existing regulations governing the allotment of land ownership a matter of priority.

Facing the agrarian disputes, there is a common symptom of action of the apparatus in the New Order government, namely the suppression by violence means (coercion) ideological means (consent) to farmers. From the existing disputes patterns in the New Order, those can be considered as a form of public discontent against the agrarian policy, that prioritizing the capital investment and the big capitalists (both public and private) that exist in Indonesia, but the dispute is mostly solved by security forces to exert pressure on the pretext of national stability.

In the transitional period (Habibie government) two laws are issued, namely Law No. 22 of 1999 on Local Government which was ratified on May 4, 1999 and Act No. 25, 1999, which was passed on May 9, 1999. This legislation still put the central government in a position to give the authority to the local government to manage certain agrarian power while the potential resources for people income is still dominated by central government. [9]

At the time of Post New Order, the National Land Agency back under the coordination of the Minister of the Internal Affairs. The implication of it that National Land Agency must conform to the rules which form the basis of regional autonomy that is Act No. 22 of 1999 on Local Government which was ratified on May 4, 1999 enhanced by Act No. 32 of 2004 on Regional Government.

Furthermore there is no assertion of recognition and respect for the rights owned by local communities, including the indigenous communities as the most affected one. This law gives birth to Presidential Decree No. 121 and 122 of 1999 on the full authority of local government to permit foreign investment without the approval of the central government. This authority is the implementation of regional autonomy [10]

Since the Cabinet of National Unity under President Wahid run the government (in 1999), there has been no real reform in the possession, usage and utilization of land and natural resources. The law makers as well as the law enforcement and policy have no sensitivity, awareness and sense of urgency to solve the agrarian problems. They do not manage to find out a good strategy to handle it. Together with the blossom of political democratization, so many people hope and wait for government action to make fundamental changes in terms of possession, usage, and utilization of land and natural resources [11]. As a result, many residents who are the victims of agrarian conflicts intensified claims to land and natural resources in their region that have been conquered and used by the giant corporations. Tragically, they often assume the company and the giant project that operates on the ground as the "usurpers of land" [12]. Though the company has legally got permits from the central government. These conditions create more conflicts and victims in the community. [13]

Yet there is a land disputes settlement in various places in Indonesia, plus the lack of cleared legal framework of agrarian reform, the national unity cabinet under president Abdurrahman Wahid is dropped by the Assembly and replaced with the mutual cooperation of cabinet under the leadership of President Megawati.

Land condition in Indonesia in the cabinet of mutual cooperation has not undergone significant changes on plantation land disputes, conflicts among residents about land, deforestation, safety and law enforcement could not be solved properly, so that many people protest to the legislature to ask the settlement of land disputes that have previously been filed. [14]

The dispute settlements are mostly proposed through the legislature assembly and by non-litigation mean to accelerate settlement process without needed to going through the legal procedures that should be done. Many special land committees at the District or City level are established to resolve the prolonged land disputes

MPR itself as the highest state institution in 2001 has been issued MPR No.IX / MPR / 2001 on Agrarian reform and natural resources management, but the follow-up of this provision has not produced the results of Presidential Decree 34 of 2003 as the extension of the embodiment concepts, policies and intact and integrated national land system has ordered the National Land Agency (BPN) to do the accelerating on [15] [16] :

1. The arrangement of Bill Completion of Law No. 5 in 1960 and the bill of rights over land and other woods legislation in the land sector.

2. The creation of information systems and land management.
3. Partly of government authority of land areas are held by the district / city government.

The peasant movement on the conflict circle can be categorized into two different types: Firstly is as a spontaneous reaction, the causes are not clear and not intentionally constructed in a particular situation. Secondly is the organized peasant movement where goals, strategies, and means are formulated clearly, consciously and based on a robust analysis of the problem, where they want the agrarian reform in order to conduct a fair land redistribution to people.

Besides those two types of peasant movements above, there are also existed more three different typologies in the Post New Order period namely:

1. typology of thuggery (thief)
2. typology of social banditry (Social Banditry movement)
3. typology of reclaiming motion (reclaiming movement).

The birth of land disputes in the Post New Order period are inevitable result of relics in the past at the same time together with the difference in perception of the ownership structure and land control that are formally adopted so far. The land dispute will not stop if the normative legal approach (formal) as fulfillment of social justice, especially repressive approach is always taken by the authorities. To end that, solving the plantation cases alternately should begin with the spirit for social justice achievement (the people), especially the restrictions on the productive land assets controlled by monopolistic.

### 3. *Dispute Settlement Through Mediation, Negotiation, And Conciliation*

From the research in a number of 16 conflicted plantation areas in Blitar district, it can be concluded that the plantation dispute is a dispute involving two groups that were fighting over plantation land. Those two groups can be possibly between society and the government, communities and plantation (both public and private), the people and the army or military (in this case Fifth Commander of Brawijaya).

The plantation land dispute is originated from the uncertainty on the right status since the Dutch period until Post New Order. The characteristics of the dispute that are found as follows [17] :

1. There is a very good plantation condition and the land-grabbing means do not indicate irregularities in obtaining the concession from the time of the Dutch East Indies period until the Post New Order. Besides, the concession holder has implemented the provisions of the concession. However, people still assume that the plantation belongs to their ancestors, so that citizens are demanding their claiming rights back.
2. The concession is still valid but the gardens allotment are not in accordance with the concession's content that the plants planted in the garden no need to be as required. Besides the gardens are not in good condition, so that society considers that gardens need to be redistributed.
3. The gardens relatively are not in good condition, so that people and the plantation workers desirous to ask it, but the plantation owners object because the concession still valid for long period, resulting the dispute between the plantation owners and the people around.
4. The plantation concession validity period has expired and the plantation owner has been declared bankrupt, because they borrow money in the bank that can not be repaid, so it consequently make the gardens abandoned and neglected. So that, the community to redistribute the abandoned land immediately.
5. The demands of the citizens for land redistribution according to the basic letter of the Minister of Agriculture and Agrarian on May 26th, 1964. The Decree 49 / Ka. / 64 point out that the plantation should be redistributed for the benefit of the society. So unsuccessful demand of the people triggers the disputes.
6. The plantation land concession is still valid but only the partially is taken care by the owners. The plantation land is taken care by the people for a long period. Then, the people demand the clarity for their rights to work on them and ask the cultivated land to be redistributed as their property rights.
7. The plantation land concession is still valid up to 2001 but abandoned by their owners, so that people around cultivate the land. Then, the people demand clarity of the plantation land rights to be their property.
8. The people have got the land through land redistribution but the land can not be planted because of the steep slope of the land, so that the people asking for land replacement in the same size the land that has been previously redistributed.
9. The plantation land whose concession is still valid but abandoned by the the concession owners. Then, the owners hand it to someone else to manage, but still also neglected. Therefore, the concession land is taken over by the local government. In such condition, the people demand for the overall redistribution to

the community around the plantation, but the government has not decided the size of area that will be redistributed.

10. The concession is over and garden condition is neglected, so that people around the plantation land make groups to cultivate the land and then asking for the redistributed land to become their property. But, that demand has not yet approved by the local government.

From the dispute description above, it is found the basics from various demands, those are:

1. The demands for land redistribution by citizens with a clearly basic that the Decree of the Minister of Agriculture and Agrarian on May 26th, 1964 no. 49 / Ka / '64 for the plantation area in East Java with an appointed area that has been specified in the decree but there has been no settlement by the government and the plantation owners.

2. The demands of land redistribution by the citizens on the basis of the Decree of the Minister of Agriculture and Agrarian May 26, 1964 no. 49 / Ka ./ '64 for East Java, but with different area size that from the decree, so that the settlement becomes incomplete and leading to disputes [18].

3. The demands for land redistribution by the citizens on the pretext that the land has been cultivated by the citizens within a certain time due to abandonment. However, the concession is still valid, has not been approved by the government and has not been released by the owners.

4. The demands for land redistribution by the citizens on the basis of the concession is over, while the people assume that the land belongs to their ancestors, so the demand for the returning of their claiming right come simultaneously with the end of the concession.

5. The demands for land redistribution by the citizens on the basis of the plantation concession has ended while the submission of a new concession has not been approved by the government, so that the people asking the same thing for claiming rights. On this case, there are citizens demanding partly or entirely of the plantation areas to become their property.

6. The demands for land redistribution by the citizens on the basis of less obviously reason that is only based on the assumption that the land belongs to their ancestors.

On this study it can be found variety means for dispute settlements. The first dispute settlement is litigation mean or judicial path. Second dispute settlement methods is through non-litigation mean. Third dispute settlement is the process of conciliation. And finally the fourth dispute settlement mechanism is through negotiation [19]. The last three methods of dispute settlement are conducted by the Local Legislative Body as the third party on this conflict.

## **5. CONCLUSION**

There are several conclusions that can be drawn from the settlement of the plantation land disputes. Firstly, through the judicial path which is often called the litigation process. Secondly, through the non-judicial path by engaging relevant institutions for mediation, that is often referred as non-litigation process. Thirdly, through reconciliation and negotiation path. The occupancy begins as non-legal then later becomes a quasi legal and eventually becomes legal. Fourthly, through a combination of non-litigation political channels and at the same time doing mass movement to suppress and strengthen the bargaining, which all of these led to the grabbing and ownership rights legally over the land from the government.

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