

IMPLICATIONS OF SUPREME COURT RULES (PERMA) OF REPUBLIC OF INDONESIA NUMBER 2 OF 2019 TOWARDS LAW CLAIMS BY GOVERNMENT AGENCY AND OFFICIALS

AGUS SUGIARTO ¹, Dr. H. M. GALANG ASMARA, S.H., M. Hum ²,

Dr. H. KURNIAWAN, S.H., M. Hum ³ and Dr. H. KAHARUDIN, S.H., M.H ⁴

^{1, 4} Program Studi Doktor Ilmu Hukum Program, Pascasarjana Universitas Mataram, Mataram, West Nusa Tenggara, Indonesia.

^{2, 3} Professor Program Studi Doktor Ilmu Hukum Program, Pascasarjana Universitas Mataram Mataram, West Nusa Tenggara, Indonesia.

Abstract

This research is to find the implication of the attendance of Sumpreme Court Rule number 2 of 2019. The goals of this research are to know the enactment of the Supreme Court Rules and what the implication of this rule to Judges, Advocates, Justice seekers and Resolution of Unlawful Act Lawsuits by Government Agencies and Officials. This is the field reseach bby using statute approach, Conceptualical Approach, Case Approach by using Primary legal materials, Secondary materials and Tertiary legal materials. the author found the conclusion of this research, that The implications of the enactment of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 on Lawsuits for Unlawful Acts by Government Agencies and Officials resulting in uncertainty in enforcing the law by Judges, Advocates as law enforcement officials and justice seekers which results in lengthy time in the process of resolving property rights disputes regarding unlawful acts, and resulted in increased costs incurred in the process of resolving property rights disputes regarding unlawful acts by Government Agencies and Officials, resulting in the failure to achieve the principle of fast, simple and low-cost justice. The nature of unlawful acts by Government Agencies and Officials is that every action taken by Government Agencies and Officials is based on their inherent authority and has resulted in losses for other people, so obliging the Government Agencies and Officials to compensate for the losses that they have caused. And the concept of resolving property rights disputes by justice seekers due to unlawful acts by Government Agencies and Officials.

Keywords: Implication, Supreme Court Rules, Law Claims

INTRODUCTION

The Country of Indonesia is a state based on law. To realize Indonesia as a state based on law, the state is obliged to carry out the development of national law which is carried out in a planned, integrated and sustainable manner within the national legal system which guarantees the protection of the rights and obligations of all Indonesian people based on the Constitution of the Republic of Indonesia of 1945.

In the chapter 20 paragraphs (1) and (2) of the Constitution of the Republic of Indonesia of 1945 explains that every law that will be enforced as a rule of law for all Indonesian people must obtain approval from the House of Representatives (DPR) and if the draft law has been discussed, but it has not received approval from the House of Representatives (DPR), then the draft that has been discussed can no longer be submitted at the session at that period¹ Furthermore, Chapter 21 paragraph (1) and (2) of the Constitution of the Republic of Indonesia

of 1945 explains that Members of the People's Legislative Assembly have the right to submit draft for discussion in a session with the government, in this case the President, and If the draft law being discussed by the DPR is approved by the DPR for enactment, but is not ratified by the President, then the draft law which has been discussed can no longer be submitted to the session at that period.² Furthermore, chapter 22A of the 1945 Constitution of the Republic of Indonesia explains that further regulations governing the procedures for making laws will be regulated by law.³

To carry out the mandate and orders of the Constitution of the Republic of Indonesia of 1945 in carrying out the making of laws, Legislation No. 12 of 2011 concerning Formation of Laws and Regulations is enacted to regulate procedures for the making of laws and regulations to meet the public's need for good laws and regulations, which are carried out in a definite, standard and binding way and method for all authorized institutions legislators.

In chapter 7 paragraph (1) Law No. 12 of 2011 concerning the Formation of Legislation, the Supreme Court Rules are not included in the order of statutory regulations, the Supreme Court Regulations are not included in the types and hierarchy of statutory regulations, so that the Supreme Court Regulations are often referred to as special regulations, because it was issued by the Highest Judicial Institution called the Supreme Court of the Republic of Indonesia. The Supreme Court of the Republic of Indonesia has a bit of legislative power, which we can regard as a delegation of power from legislators, it is the power to make their own procedural rules when deemed necessary to complement their existing procedural law.⁴

Based on the provisions of Chapter 79 of Law Number 14 of 1985 concerning the Supreme Court, it is the Supreme Court can further regulate matters necessary for the smooth administration of justice if there are matters which have not been sufficiently regulated in this Law.⁵ The elucidation in the Chapter states that "If during the course of justice there is a legal deficiency or void in a matter, the Supreme Court has the authority to make regulations as a supplement to fill in the deficiency or void. Therefore the resulting regulations are to form procedural regulations in the judicial institution."⁶

Even though in Chapter 7 paragraph (1) of Law Number 12 of 2011 about the Formation of Legislation, 7 Supreme Court Regulations are not explicitly implied and written as types and hierarchies of Legislation, but juridically the Supreme Court Regulation is a Regulation Legislation, this is based on the provisions of Chapter 8 paragraph (1)⁷ includes regulations stipulated by the Supreme Court of the Republic of Indonesia.

In accordance to the functions and powers possessed by the Supreme Court, the regulations formed by the Supreme Court are decisions in the field of justice, so that these decisions are a form of regulation to expedite the proceedings. The regulations of the Supreme Court of the Republic of Indonesia are not binding on the public because these regulations only bind the parties to the dispute and are internally binding.

If one notice, it is also related to the authority possessed by the Supreme Court of the Republic of Indonesia in making statutory regulations whose authority is delegated, which is then acknowledged in Law Number 12 of 2011 as a part of statutory regulations.⁸

The presence of the Republic of Indonesia Supreme Court Regulations in the sector of law, especially procedural law in resolving cases as a form of public service. The Supreme Court of the Republic of Indonesia can carry out the highest supervision of the administration of justice in all judicial institutions under it for the easy administration of justice.

Based on Law Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court, with the authority belonging to the Supreme Court, the Supreme Court has issued Supreme Court Regulation Number 2 of 2019 concerning Guidelines for Dispute Resolution of Government Actions and Authority to Try Unlawful Acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad).

In Chapter 2 paragraph (1), (2) and (3) of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, it is explained that cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad), are the authority of the state administrative court and the Courts State Administration, has the authority to adjudicate Disputes on Government Actions after taking administrative measures as referred to in Law Number 30 of 2014 concerning Government Administration and Supreme Court Regulation Number 6 of 2018 regarding Guidelines for Resolution of Government Administrative Disputes After Taking Administrative Efforts, henceforth in terms of regulations If the law specifically regulates administrative efforts, then the one authorized to adjudicate Disputes on Government Actions is the State Administrative High Court as the Court of First Instance.⁹

According to the chapter 10 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, it is explained that when this Supreme Court Regulation comes into effect, cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) submitted to the District Court, but have not been examined, are delegated to State Administrative Court in accordance to the provisions of the legislation.¹⁰

Similarly, in Chapter 11 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, it is explained that in cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) which are being examined by a district court, the district court must declare that it has no authority to adjudicate”.¹¹

Henceforth in Chapter 12 of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019, it is explained that cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) as referred to in Chapter 10 whose administrative efforts have been specifically regulated at the time this Court Regulation was promulgated have been delegated by the District Court to the State Administrative Court and have not been examined by the State Administrative Court, the case file is transferred to the competent State Administrative High Court accompanied by the remaining down payment of the case fee.¹²

Although initially the implementation of Supreme Court Regulation No. 2 of 2019 to fill legal deficiencies and voids in the field of state administrative disputes, but the enactment of chapter 2 paragraph (1) and (3), Chapter 10, Chapter 11 and Chapter 12 of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 has implications for the dispute resolution process property rights concerning unlawful acts which become the absolute

competence of the district court, especially in filing lawsuits for unlawful acts regarding property rights by Government Agencies and Officials where initially the plaintiff may submit a letter containing a dispute against the defendant, both individuals and Government Agencies and Officials directly to The head of the District Court has the authority to examine, try and subsequently decide in accordance to the provisions of the applicable civil procedural law, as stated in the Decision on Unlawful Acts Number: 98/Pdt.G/2013/PN. Mr jo. 73/PDT/2014/PT. Mr jo. 2832 K/Pdt/2014 which has outlined the process for resolving civil unlawful acts disputes, involving parties consisting of the plaintiffs, the defendants (one of which is the West Lombok Regency National Land Office as co-defendant).

The occurrence of blurring of norms (vague norm) in the Republic of Indonesia Court Regulation number 2 of 2019 is usually due to the fact that the formation of the Supreme Court Regulation does not properly guide legal principles. Legal principles (*rechtsbeginselen*) are the basis for the making of law.¹³ This happens because the making of a law is not always done based on an academic draft, so that the principles set forth in it are sometimes not in accordance to the formulation of substance.¹⁴ Based on the opinion above, it is clear that the legal principle is intended to be used as a philosophical basis in the making of legal norms in a law.¹⁵

As the most important focus in the research that will be carried out is the study of the Implications of Perma of RI Number 2 of 2019 Against Property Rights Lawsuits regarding unlawful acts by Government Agencies and Officials in an effort to be able to realize fast, simple and low-cost justice for every justice-seeking community in its efforts to fight for the resolution of property rights disputes regarding property rights disputes regarding unlawful acts by Government Agencies and Officials it faces.

RESEARCH METHODS

a. Statute Approach

A normative study must of course use a statutory approach and the Supreme Court Regulations of the Republic of Indonesia.¹⁶ the legal regulations that will be examined are laws and regulations generally.

b. Conceptual Approach

The object of study is from a conceptual approach, it is moving from the views and doctrines that develop in the science of law.¹⁷

c. Case Approach

In difference to social research, the case approach in normative research aims to study the application of legal norms or rules in legal practice.¹⁸

d. Primary Legal Materials

Primary legal material is legal material that has authority (authoritative):

- 1) the Constitution of the Republic of Indonesia of 1945;
- 2) Civil Code;
- 3) Law Number 11 of 2012 concerning Hierarchy of Legislation; And
- 4) Republic of Indonesia Supreme Court Regulation Number 2 of 2019
- 5) Court Decisions and Decisions of the Supreme Court of the Republic of Indonesia.

e. Secunder Legal Materials

In order to be able to provide instructions and explanations to the author in writing this dissertation, the legal materials needed in this writing are secondary legal materials. Secondary legal materials are documents or legal materials that provide an explanation of primary legal materials.

f. Tertiary legal materials.

Tertiary legal materials are legal materials that are used as a complement and also function to provide information that is not directly related to the subject matter at hand.

DISCUSSION

1. Implications of the Republic of Indonesia Supreme Court Regulation Number. 2 of 2019 against Judges

The presence of the Supreme Court Regulation Number 2 of 2019 has an impact on parties who are subject to and bound by the enactment of the Supreme Court regulations, one of the parties that has a direct impact on the Supreme Court regulations is one of the Judges as Law Enforcement Officials (APH) who exercise judicial power, which was directly affected by the implementation of the Supreme Court regulation Number 2 of 2019.

The main objective of establishing a Supreme Court Regulation of the Republic of Indonesia by the Supreme Court of the Republic of Indonesia is to fill the void in legal regulations relating to procedural law in judicial practice under the purview of the Supreme Court of the Republic of Indonesia. The attitude of judges who rule out the application of the Republic of Indonesia Court Regulation Number 2 of 2019 in resolving civil disputes for unlawful acts by government agencies or officials they handle can be understood as a kind of judge firmness in applying applicable legal regulations, in the legal system applicable in Indonesia, statutory regulations. -Promulgation ranks first in the application and enforcement of law.

The direct impact of the enactment of the Supreme Court Regulation Number 2 of 2019 on Judges as holders of Power in the Judiciary field is that Judges are labeled as disobedient and inconsistent in implementing Supreme Court Regulation Number 2 of 2019 in every Resolution of Civil disputes related to unlawful acts by Government Agencies or Officials.

However, the disobedience and inconsistency of the judges in carrying out the enforcement of the RI Supreme Court Regulation Number 2 of 2019 does not have strong reasons in the context of law enforcement for justice seekers, because if the judges in resolving every civil dispute they handle apply and enforce the Court Rules Supreme Court of the Republic of Indonesia Number 2 of 2019 will result in Judges being referred to as parties who can provide justice to justice seekers, this is a strong reason for Judges to be reluctant and unwilling to apply the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 consistently in every dispute resolution Civil Unlawful Acts by Government Agencies or Officials they handle.

Justice in question is justice in a narrow sense, it is an equal rights for all people before the court. Benefit or finality describes the contents of the law because the contents of the law are in accordance to the objectives to be achieved by the law, while legal certitude is interpreted as a condition where the law can function as a rule that must be obeyed.¹⁹ Of the three basic ideas of law, legal certitude requires that the law can function as a rule that must be obeyed, of course, not only on how the regulation is implemented.

The ambiguity of the regulation in the material content of the norms of the Supreme Court Regulation Number 2 of 2019 can lead to a situation of legal uncertainty, which in the end the Supreme Court Regulation Number 2 of 2019 cannot be used as a guideline for the judge who is subject to this regulation to resolve the civil disputes it handles.

Furthermore, Chapter 11 of the Republic of Indonesia Supreme Court Regulation Number 2019 states that if a case of unlawful act by a Government Agency and/or Official (*Onrechtmatige Overheidsdaad*) is being examined by the District Court, the district court must declare that it has no authority to adjudicate. Whereas in Chapter 50 of Law Number 2 of 1986 concerning General Courts, the District Court has the duty and authority to examine, decide, resolve criminal cases and civil cases at the first level. Junto Chapter 25 paragraph (2) of Law Number 48 of 2009 Concerning Judicial Power states "The duties and authorities of the Judicial Agency in the civil field are to receive, examine and adjudicate and resolve disputes between the parties to the case". As in the decision of the Civil case Number: 149/Pdt.G/2020/PN. Tue, July 21st of 2021, the Panel of Judges who handled and resolved the Civil Dispute for Unlawful Acts by Government Agencies and Officials, in this case the National Land Agency for the East Lombok Regency, which had issued Certificates of Property Rights (SHM) on behalf of the Defendants over the disputed objects that were legally owned from the Plaintiffs.

As for the subject matter of the case between the Plaintiffs as the owner of the rights to a plot of garden land which in total is + 4 ha 40 acres in the name of AMAQ GUNAWI who is the grandfather of the Plaintiffs, however the object of dispute in this civil case is an area of + 2 ha 83 acres by because the Defendants control and work on the object of the dispute by expelling the Plaintiffs from the object of the dispute and then subsequently controlling and seizing the object of the dispute from the legal owners, it is Plaintiffs, on the basis of ownership based on Pilil No. 85, Parcel No. 6, Class IV, located in Orong Sajita, Pengadangan Village, now Pengadangan Barat Village, Pringgasela District, East Lombok Regency, and the Defendants have issued Certificates of Property Rights (SHM) Numbers: 1191, 1192, 1193 and 1194 on behalf of the right holders Defendant IV, Defendant Defendant VII, Defendant VIII and

Defendant X, which were issued by the East Lombok Regency National Land Agency as a Government Agency or Official violated the law and violated the rights of the Plaintiffs as the legal owner of the disputed object.

In civil disputes on unlawful acts by government agencies and officials, in this case the National Land Agency for East Lombok Regency, as the part that has issued the Certificate of Property Rights on behalf of the Defendants which are the Property Rights of the Plaintiffs obtained from the inheritance of their late grandfather, the Panel of Judges who handled Civil disputes for Unlawful Acts between the Plaintiffs and the Defendants did not transfer Civil disputes that attracted Government Agencies or Officials in the case of the East Lombok Regency National Land Agency to the State Administrative Court as expressly stipulated in the Indonesian Supreme Court Regulation Number 2 of 2019. As stated in Chapter 10 of the Republic of Indonesia Court Regulation Number 2 of 2019 explains that when this Supreme Court Regulation comes into force, cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) submitted to the District Court, but have not yet been examined, are delegated to the State Administrative Court in accordance to the provisions of the legislation. This is quite firm and clear instructing the District Court to submit civil disputes that appeal to Government Agencies or Officials in the case of the East Lombok Regency National Land Agency when Civil disputes have not been examined by the Panel of Judges handling Civil disputes Number: 149/Pdt.G/2020 /PN. Cell to the State Administrative Court.

Furthermore, based on the Republic of Indonesia Supreme Court Regulation Number 2 of 2019 the Panel of Judges handling Civil disputes Number: 149/Pdt.G/2020/PN. The cell must declare that it is not authorized to try it, if the case is an unlawful act by a Government Agency or Official (Onrechtmatige Overheidsdaad) in this case the East Lombok Regency National Land Agency which is examining a Civil dispute Number: 149/Pdt.G/2020/PN. Sel, this is explained in Chapter 11 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019: "If cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) are being examined by a district court, the district court must declare that it has no authority to adjudicate."

However, even though the Panel of Judges who handled the Civil dispute Number: 149/Pdt.G/2020/PN. Sel, July 21st, 2021 knows and understands the application of the Republic of Indonesia Court Regulation Number 2 of 2019, the facts that have occurred are as follows:

- a. At the initial submission for registration of a Civil dispute Number: 149/Pdt.G/2020/PN. Tue, July 21st of 2021 before obtaining a Case Registration Number at the District Court, the Chairperson of the District Court as the lead Judge at the District Court addressed to the said Civil dispute has known for certain that in the lawsuit filed by the Plaintiffs, they have withdrawn Government Agencies or Officials in terms of This is the East Lombok Regency National Land Agency as the parties to the Civil dispute, but the Head of the District Court as the Chief Judge at the District Court did not delegate the Civil dispute lawsuit filed by the Plaintiffs to the State Administrative Court based on the order of Chapter 10 of the Supreme Court of the Republic of Indonesia Number 2 of 2019;

- b. After the civil lawsuit for unlawful acts by government agencies and officials, in this case the National Land Agency for East Lombok Regency, was tried by a panel of judges handling case Number: 149/Pdt.G/2020/PN. Sel, July 21st of 2021, after examining, adjudicating a Civil dispute between the Plaintiffs against the Defendants, one of which is the Government Agency or Pejabat, in this case the East Lombok Regency National Land Agency as the party that has issued the Ownership Rights Certificate (SHM) on behalf of the The Defendant, in the end the Panel of Judges decided on the Civil dispute by granting the Plaintiffs' claim in part, which should be based on Chapter 11 of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019, the Panel of Judges who handled and examined Civil disputes between the Plaintiffs against the Defendants, one of which was is a government agency or official, in this case the National Land Agency for East Lombok Regency, as the party that has issued Certificates of Property Rights (SHM) on behalf of the Defendants, the Panel of Judges handling it must decide in a ruling that the District Court has no authority to adjudicate the case in question, so RI Supreme Court Regulation Number 2 of 2019 can be applied consistently;
- c. The Head of the District Court as the Lead Judge at the District Court when he became aware of a lawsuit against the law by a Government Agency or Official (Onrechtmatige Overheidsdaad) in this case the East Lombok Regency National Land Agency did not submit a civil dispute lawsuit Number: 149/Pdt.G /2020/PN. Sel to the State Administrative Court as referred to in Chapter 10, so that subsequently the State Administrative Court can delegate it to the State Administrative High Court whose administrative efforts have been specifically regulated at the time this Supreme Court Regulation was enacted has been delegated by the District Court to the State Administrative Court and have not been examined by the State Administrative Court, the case file is transferred to the competent State Administrative High Court accompanied by the remaining down payment of the case fee.
- d. Judges' reluctance to apply RI Supreme Court Regulation Number 2 of 2019 in handling disputes over unlawful acts by Government Agencies and Officials Number: 149/Pdt.G/2020/PN. Sel, caused by the obscurity of material norms contained in the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 which results in no guarantee of legal certitude for parties bound by the regulations of the Supreme Court of the Republic of Indonesia, in the case of Judges, Advocates and justice seekers, so that as a result the Regulation The Supreme Court of the Republic of Indonesia Number 2 of 2019 is unable to provide guarantees of justice, certainty and legal benefits for justice seekers.

Based on the Selong District Court Decision with Case Number: 149/Pdt.G/2020/ PN. Sel Acts as Plaintiffs AMAQ LENI, the next is referred to as PLAINTIFF I, INAQ MIS, the next is referred to as PLAINTIFF II, INAQ SRINUN, the next is referred to as PLAINTIFF III. Against: INAQ MAHNIM, the next is referred to as ACCUSED I, INAQ SAHMAN, the next is referred to as ACCUSED II, INAQ SUSIANTI, the next is referred to as ACCUSED III, INAQ MAHRUM, the next is referred to as ACCUSED IV, INAQ SARIMAH, the next is referred to as ACCUSED V, AMAQ IWAN, The next is referred to as DEFENDANT VI, AMAQ HOR, the next is referred to as ACCUSED VII, AMAQ SOHA, the next is referred to

as ACCUSED VIII, LOQ MARAH, the next is referred to as ACCUSED IX, SUARDI, the next is referred to as ACCUSED X, NATIONAL LAND AGENCY (BPN) East Lombok Regency , the next is referred to as DEFENDANT XI.

In the Decision on Case Number: 149/Pdt.G/2020/ PN. In the opinion of the author, the cell should be a Class I B Selong District Court Judge (East Lombok) who examines the case, it must be delegated to the PTUN in accordance to the provisions of the legislation, in this case the application of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019. For cases whose administrative efforts have been regulated specifically at the time of the Republic of Indonesia Court Regulation Number 2 of 2019, it had been delegated by the District Court to the Administrative Court and had not been examined by the Administrative Court, by the judge of the case and the case files were transferred to PT. TUN which has authority over cases of unlawful acts by government agencies and/or officials (onrechtmatige overheidsdaad) which are being examined by the District Court, the District Court judge must declare that he has no authority to adjudicate.

2. Implications for Advocates

In Law Number 18 of 2003 concerning Advocates, it is stated that the obligations of an Advocate are:

- a. In carrying out their professional duties, it is prohibited to differentiate treatment of Clients based on gender, religion, politics, descent, race, or social and cultural background.
- b. It is obligatory to keep secret everything that is known or obtained from its clients because of their professional relationship, unless otherwise stipulated by law.
- c. Obligation to provide legal assistance free of charge to justice seekers who cannot afford it.
- d. Maintaining the dignity and honor of the Advocate profession.
- e. Must comply to the code of ethics of the Advocate profession and the provisions regarding the Honorary Council of Advocate Organizations.

Advocates in defending their clients must adhere to the principle of Equality before the Law, it is guaranteeing equality before the law and the principle of presumption of innocence, it is considering that their client is right based on the data and information provided to him. This principle is implemented so that in his defense, an Advocate has the courage to carry out his profession and functions effectively.²⁰

Poor people who are facing cases in court, in order to defend and protect their legal rights, can request information (information) from local agencies, such as: District Court or High Court, District Attorney or High Court, and Legal Aid Institute , by preparing a Certificate of Disadvantage from the local village head; or Statement of Inability from the Applicant and justified by the local District Court; or Letter of Disadvantage from the Applicant and confirmed by the local Legal Aid Institute.²¹ Advocates have an important role in realizing what

is the ideals and hopes of every justice-seeking community, both within the judiciary and outside the judiciary.

After the enactment of Supreme Court Regulation Number 2 of 2019, it becomes a tough task for law enforcers, especially in this case an advocate. Practices that occurred in the field both before the enactment of Supreme Court Regulation Number 2 of 2019 and after the enactment of Supreme Court Regulation Number 2 of 2019 have separate implications for advocates as law enforcers. There is particular confusion for an advocate in carrying out or registering a lawsuit for unlawful acts committed by a government agency or official. What's more, the presence of Supreme Court Regulation Number 2 of 2019 does not provide legal certitude.

Resolution of disputes between the people and Government Agencies and Officials in Indonesia before the enactment of Law Number 5 of 1986 in conjunction with Law Number 9 of 2004 and Law Number 51 of 2009 follows the pattern:

- 1) Resolution of disputes through internal administrative channels, it is the hierarchical superiors of the officials concerned. This route is commonly known as administrative beroeop or procedure for filing objections.
- 2) Resolution of disputes carried out by moot courts, which are actually part of the government/administrative structure.
- 3) Resolution by a judicial body which can be in the form of:
- 4) Special administrative courts, it is tax issues;
- 5) General justice.²²

Chapter 1 number 1 Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2019 regulates government actions, it is the actions of government officials or other state administrators to take and/or not take concrete actions in the framework of administering government. This definition is the same as Chapter 1 point 8 which is meant by Handling: ²³ "Actions of Government Administration, the next is referred to as Actions, are actions of Government Officials or other state administrators to carry out and/or not to carry out concrete actions within the framework of administering government".

In Supreme Court rules Number 2 of 2019, it is Chapter 1 number 4 and the whole does not specify clear elements. Chapter 1 point 4 only mentions the term Dispute for Unlawful Acts by Government Agencies/Officials (*onrechtmatige overheidsdaad*) is a dispute which contains demands to declare invalid and/or cancel the actions of government officials, or do not have binding legal force and compensation in accordance to the provisions of the legislation. The elements are still unclear, as contained in Chapter 1365 of the Civil Code.²⁴

Supreme Court rules Number 2 of 2019 then regulates regarding the reasons for the lawsuit, Chapter 3 states that Citizens can submit a Government Action Lawsuit in writing to the competent Court.

Chapter 2 paragraph (2) Regarding the obligation to take administrative measures first, states that the State Administrative Court has the authority to adjudicate Government Action Disputes

after taking administrative measures as referred to in Law Number 30 of 2014 concerning Government Administration and Supreme Court Regulation Number 6 of 2018 regarding Guidelines for Government Administrative Dispute Resolution After Undergoing Administrative Efforts. This is in accordance to the provisions in Chapter 1 paragraph (1) supreme court rules Number 6 of 2018 mentioned:²⁵ The court has the authority to receive, examine, decide and resolve government administrative disputes after taking administrative measures. Based on the provisions of this chapter, all government administrative disputes are resolved through administrative efforts. In another sense, administrative disputes are not yet the absolute authority of the State Administrative Court to resolve them, except after taking administrative measures but the results are unsatisfactory.

Based on Chapter 2 paragraph (1) Supreme Court Regulation Number 2 of 2019 administrative efforts are mandatory for community members who want their administrative disputes to be resolved. The provisions of Chapter 2 paragraph (1) Perma RI Number 2 of 2019 have consequences in the form of an obligation for all government agencies to provide administrative efforts.

Based on the problems mentioned above, making advocates as part of law enforcement in carrying out civil lawsuits sometimes involves the National Land Agency (BPN), sometimes does not involve BPN as a defendant or co-defendant. This is in accordance to the example of the District Court Decision case Number: 156/Pdt.G/2020/PN.Sel and the District Court Decision case Number: 149/Pdt.G/2020/PN.Cell.

In the District Court Decision case Number: 156/Pdt.G/2020/PN.Sel did not involve the East Lombok National Land Agency (BPN) as the defendant, but the case with case number 156/Pdt.G/2020/PN.Sel continues and decided by the Panel of Judges. As for the verdict, it reads as follows

Judging

1. Granted the Plaintiffs' Claim in part
2. Declare according to law that AMAQ ASAT passed away in 1963
3. Declare that all the documentary evidence submitted by the Plaintiffs in the a quo case is valid
4. Declare that the actions of Defendants I to Defendants VI which have harmed the Plaintiffs are unlawful acts
5. Stating that rice field area is ± 1 (one) ha 73.5 (seventy three point five) acres, by pipil number 88, parcel number 515, class II, in the name of AMAQ ASAT, located in Orong Janur Subak Tundak Batu Putik Village Keruak District, East Lombok Regency, with boundaries: North: Formerly the rice fields owned by AMAQ MERTI are currently controlled by AMAQ NURDI, H. MUH. WARDI and H. ZAENAL ABIDIN; In the past, AMAQ ASAT's rice fields were currently controlled by AMAQ ROBI and ditches; South: Formerly the rice fields belonged to AMAQ ASAT, currently controlled by MIATI/AMAQ SURI, AMAQ ODEN Alias MINEP, H. MUH. WARDI and SATI; Previously, AMAQ

MIATI's rice fields were currently controlled by AMAQ SURI; East : Rice fields owned by AMAQ HUR; West : Formerly AMAQ MIATI rice fields are currently controlled by AMAQ SURI; is the property and legacy of AMAQ ASAT;

6. Punished Defendant I to Defendant VI to return and hand over the object of land in dispute in the form of rice fields covering an area of ± 1 (one) ha 73.5 (seventy three point five) are, with pipil number 88, parcel number 515, class II, on behalf of AMAQ ASAT, located in Orong Janur Subak Tundak Batu Putik Village, Keruak District, East Lombok Regency, to the Plaintiffs
7. Punished Defendants I to Defendants VI to pay material damages to the Plaintiffs in the amount of Rp. 2,430,000,000.- (two billion four hundred and thirty million rupiah) jointly and severally
8. Ordered Defendants I to Defendants VI to pay the costs incurred in this case in the amount of Rp. 3,402,500,- (three million four hundred two thousand five hundred rupiah).
9. Rejected the Plaintiff's Claim for other than and the rest;

This was decided in the deliberation of the Panel of Judges of the Selong District Court on Monday, June 14th, 2021 by Dewi Santini, SH., MH. as Chief Justice of the Panel, Timur Agung Nugroho, S.H., M.Hum. and Nasution, S.H., each as a Member Judge appointed based on the Stipulation Letter of the Chairman of the Selong District Court Number 156/Pdt.G/2020/PN.Sel. December 1st, 2020. The decision was pronounced in a trial that was open to the public on Monday, June 21st, 2021 by the Chief Judge of the Panel and was attended by the Member Judges, Hikmawati, SH., Alternate Registrar at the Selong District Court, attended by the Plaintiffs' Attorneys, Attorney of Defendant I to Defendant III and Attorney of Defendant IV to Defendant VI without being attended by Defendant I and Defendant II.

Based on the decision above, the Panel of Judges who decided and tried the case did not implement the provisions of Supreme Court Regulation Number 2 of 2019 which had been issued by the Supreme Court of the Republic of Indonesia. In line with the Case Court Decision Number: 149/Pdt.G/2020/PN.Cell. Whereas in this case the Advocate as part of the law enforcers made the East Lombok National Land Agency (BPN) as the defendant, while the verdict is as follows:

Judging

1. Granted the Plaintiff's lawsuit in part
2. Declaring that the object of the disputed land is garden land with an area of approximately 2.82 (two point eighty two) ha, in the name of AMAQ GUNAWI located in Orong Sajita, Pengadangan Barat Village, Pringgasela District, East Lombok Regency, with boundaries: North: AMAQ SUKAMIN farm/garden South: H. MAHNIN farm/garden land, land of INAQ SARMAN. East : garden road. West: AMAQ KERTASIH farm/garden land is the property of the Plaintiffs.
3. Declaring that Defendants I through Defendants X who have taken the action of controlling, cultivating, processing to enjoy all forms of utilization of the object of land in

dispute is an unlawful act

4. Punishing Defendants I through Defendants X or anyone else to voluntarily hand over the disputed land object to the Plaintiffs or with the assistance of the authorities (Police)
5. Ordered the defendants to pay the costs incurred in this case in the amount of Rp. 2. 977. 500,- (two million nine hundred seventy seven thousand five hundred rupiah)
6. Rejecting the plaintiff's claim for other than and the rest.

Looking at the decision above, even though the Advocate as a law enforcer made and included the East Lombok National Land Agency (BPN) as a defendant, the Panel of Judges who decided and tried the case still accepted and did not direct the Advocate to make and register his lawsuit at the State Administrative Court (Administrative Court). The Chief Judge at the District Court did not delegate the civil dispute lawsuit filed by the Plaintiffs to the Administrative Court.

Furthermore, the State Administrative Court can delegate to the State Administrative High Court which has been specifically regulated at the time the Supreme Court Regulation Number 2 of 2019 was promulgated which became the authority of the State Administrative High Court.

3. Implications for Justice Seekers

There is nothing in this world remains unchanged except for change itself, as well as the need for court services. Along to the times, it continues to develop and change. The public wants the courts to be able and always adapt to the pace of development. There is no other way to meet these public expectations except in one way, it is renewal.

After the enactment of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, justice seekers are required to resolve problems based on regulations issued by the Supreme Court. The presence of Supreme Court Regulation Number 2 of 2019 does not seem to provide benefits for justice seekers. The presence of the Supreme Court Regulation Number 2 of 2019 does not provide legal certitude and the principle of fast, simple and low cost does not work according to the expectations of the justice seeker community, as a result the justice seeker community does not get a positive impact and does not provide legal protection for the justice seeker community.

Sjachran Basah said that nowadays legal protection is a natural urgency to appear in the forefront, especially in realizing equality in obtaining justice. Legal protection is something that is very urgent because according to Sjachran Basah²⁶, sometimes the state administration misbehaves and acts in carrying out its duties, even though the law is correct. There are also times when the state administration's actions are according to law and it is not the implementation that is wrong, but the law itself which is materially incorrect.

In Supreme Court Regulation Number 2 of 2019, Chapter 1 point 4 does not specify clear elements or does not provide legal certitude for justice seekers. Chapter 1 point 4 only mentions the term Dispute for Unlawful Acts by Government Agencies/Officials (onrechtmatige overheidsdaad) is a dispute which contains a claim to declare invalid and/or cancel the action

of a government official, or does not have binding legal force and compensation in accordance to the provisions of the legislation. The elements are still unclear, as contained in Chapter 1365 of the Civil Code.²⁷

Based on Chapter 2 paragraph (1)²⁸ this Supreme Court rules is an administrative effort that is mandatory for community members who want their administrative disputes to be resolved. The provisions of Chapter 2 paragraph (1) of this Supreme Court rules bring consequences in the form of an obligation for all government agencies to provide administrative efforts.

The enactment of Supreme Court Regulation Number 2 of 2019 has increased costs for people looking for justice, meaning that after the issuance of Supreme Court Regulation Number 2 of 2019 it is not in accordance to the principles of simple, fast and low cost. The wishes of the community and justice seekers demand that the Resolution of cases through the courts proceed according to the principles of being simple, fast and low cost. Parties who feel that their rights have been violated and cannot resolve it themselves can submit their lawsuit to the court.

What is aspired to is an examination process that relatively does not take a long time up to many years, this is in accordance to the simplicity of the Procedural Law itself.²⁹ So, in a trial that can be carried out simply, quickly and at low cost, the judge must be professional in handling a case, so that the problems faced by the parties to the litigation can be resolved simply, quickly and low cost.

In this case (Decision of the Selong District Court Number: 156/Pdt.G/2020/PN.Sel) the East Lombok National Land Agency (BPN) was not involved or was not a defendant or co-defendant. Whereas in this case, the land certificate in the name of the defendant's parents which had been issued by the BPN was part of an unlawful act committed by a government agency or official.

In a civil case at the Selong District Court Number: 156/Pdt.G/2020/PN.Sel which is not interesting and involves Government Agencies and Officials due to the enactment of RI Supreme Court Regulation No. 2 of 2019, in the case of the East Lombok Regency National Land Agency, the principle of simple, fast and low-cost justice cannot be applied, because after the civil case Number: 156/Pdt.G/2020/PN.Sel was broken up and has permanent legal force, then The plaintiff as the winning party must sue the party who has submitted the certificate to the realm of the State Administrative Court to cancel the certificate, which will result in the dispute resolution process being lengthy and expensive..

4. Implications for Resolution of Unlawful Act Lawsuits by Government Agencies and Officials.

Prior to the entry into force of the Supreme Court Regulation Number 2 of 2019, the process of settling civil disputes or problems for unlawful acts by government agencies or officials, in this case the National Land Agency as the party that had issued certificates of ownership rights (SHM) in violation of the law, took +2 years, The period of time for the Resolution of civil unlawful acts disputes by government agencies or officials is calculated from the registration of a lawsuit at the district court level, the high court at the appeal level, and the Supreme Court

of the Republic of Indonesia at the cassation level, while at the same time it does not require a large amount of money to resolve any civil unlawful acts disputes. By Government Agencies or Officials faced by justice seekers.

In the decision of the Selong District Court Case Number: 149/Pdt.G/2020/ PN. The cell involved the NATIONAL LAND AGENCY (BPN) of East Lombok Regency, as DEFENDANT XI it took quite a long time since the lawsuit was registered at the District Court. After the first-level court proceedings and legal remedies were carried out, the Plaintiff in the decision of the Selong District Court Case Number: 149/Pdt.G/2020/ PN. The cell is only limited to controlling the object of the dispute as an object, but administrative control cannot be won because the plaintiff must file an administrative lawsuit with the State Administrative Court (PTUN).

The presence of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019 provides for a long wait for the Unlawful Act Lawsuit Resolution Process by Government Agencies or Officials, this is not in accordance to the principle of being simple, fast and low cost. Simple means that the examination and Resolution of cases is carried out in an efficient and effective manner.³⁰

Procedures that are already simple, should not be deliberately complicated by the judge leading to a convoluted examination process, until the examination is postponed for several times for various reasons that are not valid according to law. The judge has a cold, the trial is postponed, the judge enters the office at eleven, and the examination is postponed. The judge is lazy, the examination is backwards. The family of the court clerk or married judge is used as an excuse to postpone the trial examination, even if the parties from far away have struggled to pay for the witnesses they will face, or the legal adviser goes on a cruise as a reason for postponing the trial examination. Check back and forth and never until the final destination. Such methods aside from immoral judges, as well as unprofessional.³¹

Fast, must be interpreted as a strategic effort to make the justice system an institution that can guarantee the realization or achievement of justice. the principle of speed in a trial is that the judge in examining the parties in a dispute must strive for the Resolution process after there is accurate evidence from the parties and the witnesses immediately give a decision and the time is not delayed or hold a trial delay which is an interval between trial the first and second and so on is not too long.³²

Low cost, that seeking justice through the judiciary is not just people who have hope for justice guarantees in it but there must be guarantees that justice is not expensive, justice cannot be materialized, and justice is independent and free from other values that undermine the value of justice itself.

According to the author, after the enactment of Supreme Court Regulation Number 2 of 2019, judges at District Courts must be wise and able to respond to every case that enters the realm of court, this is important to note because it will provide losses both in terms of time and costs incurred during the process trial holding. The same is the case with the Selong Case District Court Decision Number: 156/Pdt.G/2020/PN. Sel, the plaintiff must file an administrative

lawsuit with the State Administrative Court after the a quo case has permanent legal force after the enactment of Supreme Court Regulation Number 2 of 2019.

This cannot be separated from the inability of chapter 1365 to specifically identify the relationship between the legal subject being sued and the legal event in question. Simply put, chapter 1365 of the Civil Code does not see the requirement "whoever does it, he is responsible", as it is known in public law.

The provisions of Chapter 1365 of the Civil Code seem to use the logic of absolute liability (strict liability) or vicarious liability, the focus is on targeting legal subjects that represent the position of a civil legal entity, so that a public organization as complex as a government is only viewed from the perspective of the side between the power and the principal of the organization. While in the rule of public law, legal actions of government organizations are carried out by authorized officials. In the concept of public law, legal responsibility is closely related to the use of authority, which then gave birth to the principle "geen bevoegdheid zonder verantwoor-delijkheid, there is no authority without responsibility", that is, there is no authority without accountability.

The Supreme Court regulation determine that government action disputes are disputes that come up in the field of government administration between citizens and government officials or other state administrators as a result of government actions. As for what is meant by disputes on unlawful acts by government agencies and/or officials (onrechtmatige overheidsdaad) are disputes which contain demands to declare invalid and/or cancel the actions of government officials, or do not have binding legal force along with compensation in accordance to regulatory provisions. Legislation.

The Supreme Court Regulation emphasizes that cases of unlawful acts by government bodies and/or officials (onrechtmatige overheidsdaad) are the authority of the state administrative court. As for unlawful acts by government agencies and/or officials (onrechtmatige overheidsdaad) are government actions. State Administrative Court has the authority to adjudicate government action disputes after taking administrative measures as referred to in the Law on Government Administration and Supreme Court Regulation Number 6 of 2018 about Guidelines for Resolution of Government Administrative Disputes After Undergoing Administrative Efforts.

By using a very significant change in the process of resolving unlawful acts disputes by Government Agencies or Officials after the enactment of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019 which requires that any withdrawal of Government Agencies or Officials in unlawful acts disputes must go through the State Administrative Court will result in the long process of resolving disputes against unlawful acts becomes lengthy and at the same time results in increased costs to be incurred by justice seekers.

The enactment of each statutory regulation aims to regulate and organize the life of the nation and state, so that people get certainty and benefit from the enactment of the law itself, but not the other way around, with the enactment of a law the community does not get legal certitude..

CONCLUSION

- 1) The nature of unlawful acts by Government Agencies and Officials is that every action taken by Government Agencies and Officials is based on their inherent authority and has resulted in losses for other people, so obliging the Government Agencies and Officials to compensate for the losses that they have caused.
- 2) The implications of the enactment of the Supreme Court Regulation of the Republic of Indonesia Number 2 of 2019 on Lawsuits for Unlawful Acts by Government Agencies and Officials resulting in uncertainty in enforcing the law by Judges, Advocates as law enforcement officials and justice seekers which results in lengthy time in the process of resolving property rights disputes regarding unlawful acts, and resulted in increased costs incurred in the process of resolving property rights disputes regarding unlawful acts by Government Agencies and Officials, resulting in the failure to achieve the principle of fast, simple and low-cost justice.
- 3) The concept of resolving property rights disputes by justice seekers due to unlawful acts by Government Agencies and Officials regarding property rights disputes through the District Court where the object of the dispute is controlled by another party and the issuance of a Property Rights Certificate (SHM) for the object of the land dispute in the name of someone else the right owner, and subsequent dispute resolution can be carried out through the State Administrative Court if the object of the dispute is still in the hands of the rightful owner but proof of ownership is in the form of a certificate of ownership issued by a government agency or official on behalf of another party who has no legal rights.

Notes

- 1) Look at Article 20 paragraph (1) and (2) of the 1945 Constitution of the Republic of Indonesia, which states: (1) Each law requires the approval of the House of Representatives. (2) If a draft law does not get the approval of the DPR, then the said draft may not be brought forward again in the session of the DPR at that time.
- 2) Look at Article 21 paragraph (1) and (2) of the 1945 Constitution of the Republic of Indonesia, which states: (1) Members of the DPR have the right to advance bills. (2) If the draft, even though it is approved by the DPR, is not approved by the President, then the said draft may not be brought forward again in the session of the DPR at that time.
- 3) Look at Article 22A of the 1945 Constitution of the Republic of Indonesia, which states: Further provisions regarding the procedures for forming laws are regulated by law.
- 4) Philipus M. Hadjon, Lembaga Tertinggi dan Lembaga Tinggi Negara Menurut Undang-undang Dasar 1945, PT. Bina Ilmu, Surabaya, 1992, page. 64
- 5) See Article 79 of the Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court which states that the Supreme Court can further regulate matters necessary for the smooth administration of justice if there are matters which have not been sufficiently regulated in this law.
- 6) The types and hierarchies of Legislation in accordance with Article 7 paragraph (1) of Law Number 12 of 2011 are as follows: a. The 1945 Constitution of the Republic of Indonesia, b. Decree of the People's Consultative Assembly, c. Laws/Government Regulations in Lieu of Laws, d. Government regulations, e.

Presidential decree; f. Provincial Regulation; and g. Regency/City Regional Regulations.

- 7) See Article 8 paragraph (1) Law Number 12 of 2011 states: Types of Legislation other than those referred to in Article 7 paragraph (1), include regulations stipulated by the People's Consultative Assembly and the People's Representative Council, the Regional Representative Council, the Court Supreme Court, Constitutional Court, Supreme Audit Board, Judicial Commission, Bank Indonesia, Ministers, agencies, institutions or commissions of the same level established by law or government by order of law, Provincial People's Legislative Council, Governor, People's Representative Council Regency/City Region, Regent/Mayor, Village Head or equivalent".
- 8) Vica J. E. Saija, Op. Cit. Page. 12
- 9) See Article 2 paragraph (1), (2) and (3) of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019 Concerning Guidelines for the Settlement of Disputes on Government Actions and Authority to Tries Unlawful Acts by Government Bodies and/or Officials (Onrechtmatige Overheidsdaad), stating (1) Cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad), (2) The State Administrative Court, has the authority to adjudicate Government Action Disputes after taking administrative measures as referred to in Law Number 30 of 2014 concerning Government Administration and Court Regulations Agung Number 6 of 2018 concerning Guidelines for the Settlement of Government Administrative Disputes After Undergoing Administrative Efforts, (3) In the case of laws and regulations specifically regulating administrative efforts, the authority to adjudicate Government Action Disputes is the State Administrative High Court as the Court of First Instance.
- 10) See Article 10 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, which states that when this Supreme Court Regulation comes into effect, cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) submitted to the District Court, but have not been examined, are delegated to State Administrative Court in accordance with statutory provisions.
- 11) See Article 11 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019, which states that if a case of unlawful act by a Government Agency and/or Official (Onrechtmatige Overheidsdaad) is being examined by a district court, the district court must declare that it has no authority to adjudicate
- 12) See Article 12 of the Republic of Indonesia Supreme Court Regulation Number 2 of 2019 stating that if a case of unlawful act by a Government Agency and/or Official (Onrechtmatige Overheidsdaad) as referred to in Article 10 whose administrative efforts have been specifically regulated at the time of This Court Regulation has been promulgated as having been delegated by the District Court to the State Administrative Court and has not yet been examined by the State Administrative Court, the case file has been transferred to the competent State Administrative High Court accompanied by the remaining down payment for the case fee.
- 13) Djuhaendah Hasan dalam Lalu Husni, "Hukum Penempatan Dan Perlindungan TKI" Cet. I, Program Pasca Sarjana Universitas Brawijaya Malang, 2010, Malang, page. 17.
- 14) Lalu Husni and friends, "Kajian Naskah Akademik Pembuatan Peraturan Daerah Badan Usaha Milik Desa (BUMDES) Kabupaten Lombok Barat", Research Report, Universitas Mataram, 2009, page. 54
- 15) However, it is possible that the principles mentioned at the beginning of a law are not fully explained in a legal norm. These principles are only used as "displays" to give the impression that the norms contained in the law in question have a clear basis of reference to the principles. Look at Lalu Husni, Op. cit. p. 18.
- 16) Johnny Ibrahim, Teori & Metodologi Penelitian Hukum Normatif, Cet. Ke 1, Bayumedia Publishing, Malang, 2005, page. 302
- 17) H. Salim H. S. & Erlies Septiana Nurbani, Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi, Ed. I, Cet. ke1, PT. RajaGrafindo Persada, Jakarta, 2013, page. 19
- 18) *Ibid*,

- 19) Theo Huijbers, *Filsafat Hukum Dalam Lintasan Sejarah*, Jakarta, Kanisius, 1982, pages. 162.193
- 20) Supriadi, *Etika dan Tanggung Jawab Profesi Hukum di Indonesia*, Sinar Grafika, Jakarta, 2006, hlm. 67
- 21) Anonim. "Prosedur Bantuan Hukum". <http://www.pntrenggalek.go.id/prosedurbantuan-hukum/layanan-hukum/layanan-hukum-masyarakat-kurangmampu-prosedur-bantuan-hukum>, accessed at July 2nd of 2022.
- 22) Paulus Effendi Lotulung, *Beberapa Sistem Kontrol Tentang Segi Hukum Terhadap Pemerintah, Cet. I*, Bhuana Pancakarsa, Jakarta, 1986, page. 83.
- 23) Lihat Pasal 1 butir 8 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.
- 24) There are several elements in the unlawful act article regulated in article 1365 of the Civil Code, including:
1. There must be an act, 2. The act is against the law. 3. The perpetrator must have a fault, 4. The act caused a loss, 5. There is a causal relationship between the act and the loss
- 25) ¹ See Article 2 paragraph (1) Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2019 concerning Guidelines for Dispute Resolution on Government Actions and Authority to Trial Unlawful Acts by Government Agencies/Officials (Onrechtmatige Overheidsdaad).
- 26) Sjachran Basah, *Perlindungan Hukum Terhadap Sikap-Tindak Administrasi Negara*, Penerbit Alumni, Bandung, 1992, page. 11.
- 27) There are several elements in the unlawful act article regulated in article 1365 of the Civil Code, including:
There must be an act
 - a. The act is against the law
 - b. The perpetrator must have a fault
 - c. The act caused a loss
 - d. There is a causal relationship between actions and losses
- 28) Look at Article 2 Paragraph (1) reads: Cases of unlawful acts by Government Agencies and/or Officials (Onrechtmatige Overheidsdaad) are the authority of the State Administrative Court.
- 29) Sulaikin Lubis, dkk, *Hukum Acara Perdata Peradilan Agama Di Indonesia*, Kencana, Jakarta, 2005, page. 179
- 30) Sidik Sunaryo, *Kapita Selekta Sistem Peradilan Pidana*, UMM Press, Malang, 2005, page. 53.
- 31) M. Yahya Harahap, *Kedudukan Kewenangan dan Acara Peradilan Agama* (Undang-undang No. 7 Tahun 1989), Jakarta : Sinar Grafika, 2003, page. 71
- 32) Sarwono, *Hukum Acara Perdata Teori dan Praktik*, Sinar Grafika, Jakarta, 2014, page. 24

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- 2) Basah, Sjachran, *Perlindungan Hukum Terhadap Sikap-Tindak Administrasi Negara*, Penerbit Alumni, Bandung, 1992
- 3) *Constitution of the Republic of Indonesia 1945*
- 4) Effendi, Paulus, Lotulung, *Beberapa Sistem Kontrol Tentang Segi Hukum Terhadap Pemerintah, Cet. I*, Bhuana Pancakarsa, Jakarta, 1986.

- 5) Hasan, Djuhaendah in Lalu Husni, "Hukum Penempatan Dan Perlindungan TKI" Cet. I, Program Pasca Sarjana Universitas Brawijaya Malang, 2010
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- 9) J. Vica, E. Saija.
- 10) Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court
- 11) Law Number 12 of 2011
- 12) Law Number 30 of 2014 Concerning Government Administration
- 13) Lubis, Sulaikin dkk, Hukum Acara Perdata Peradilan Agama Di Indonesia, Kencana, Jakarta, 2005.
- 14) M. Philipus Hadjon, Lembaga Tertinggi dan Lembaga Tinggi Negara Menurut Undang-undang Dasar 1945, PT. Bina Ilmu, Surabaya, 1992.
- 15) Salim H. S. & Erlies Septiana Nurbani, Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi, Ed. I, Cet. ke 1, PT. Raja Grafindo Persada, Jakarta, 2013
- 16) Sarwono, Hukum Acara Perdata Teori dan Praktik, Sinar Grafika, Jakarta, 2014.
- 17) Sunaryo, Sidik, Kapita Selekta Sistem Peradilan Pidana, UMM Press, Malang, 2005.
- 18) Supreme Court Regulation of RI Number 2 of 2019 Concerning Guidelines for the Resolution of Disputes on Government Actions and Authority
- 19) Supriadi, Etika dan Tanggung Jawab Profesi Hukum di Indonesia, Sinar Grafika, Jakarta, 2006.
- 20) Yahya, M. Harahap, Kedudukan Kewenangan dan Acara Peradilan Agama (Undang-undang No. 7 Tahun 1989), Jakarta : Sinar Grafika, 2003.