

## Juridical-Sociological study of land pawn : a normative study in patilanggio district

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### Abstract

*The practice of land pawning in Patilanggio district still keeps the provisions of the applicable laws and regulations. So that it is more likely to harm the pledge grantor which is not based on the principle of helping. Although the community realizes that pawning land is harm for them, this is still done by residents as the last solution to meet urgent needs. This practice has become a habit and it is normal for community and never be a problem between the land pawner and the land pawn recipient. In disputing resolution between the grantor and the recipient, is by way of deliberation, involving the village head or only by deliberation between the pawner and the pawn recipient.*

**Keywords:** Pawner, recipient, Patilanggio

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### Article's Information:

DOI:

<https://doi.org/10.35326/volkgeist.v5i1.701>

## 1. Introduction

Protection of property, including protection of land ownership, is a human right that must be protected. The guarantee of protection of property rights is affirmed in Law No.39 of 1999 concerning Human Rights, in the provisions of Article 29 paragraph (1) which reads:

"Everyone has the right to protection of personal, family, honor, dignity and property rights"

Furthermore, in Article 36 paragraph (1), (2) and (3) which reads:

1. Every person has the right to own property, either individually or collectively with others for the development of himself, his family, nation and society in a way that does not violate the law.
2. No one may be confiscated arbitrarily and illegally
3. property rights have a social function

Apart from the permanent land rights stipulated in the UUPA, land rights are also regulated in the UUPA. Temporary land rights are temporary rights to land, in a short period of time they will be abolished because they contain extortion characteristics, contain feudal characteristics, and are contrary to the spirit of the UUPA. In addition, these land rights can also be referred to as land rights that are secondary in nature because land rights originate from other parties' lands.

One of the temporary land rights is the Pawai (land lien), This is explained in the provisions of Article 53 paragraph 1 of Law No.5 of 1960 concerning Basic Agrarian Principles that rights which are temporary in nature as referred to in Article 16 paragraph (1) letter h, are liens, business rights. production sharing, hitchhiking rights and agricultural land lease rights are regulated to limit their properties which are contrary to this law and these rights are sought to be eliminated in a short time. In

addition to being regulated in the provisions of the UUPA, the arrangement of lien on land is also regulated in customary law, which states that the agreement between the pawner and the pawn holder who gives up land in the form of rice fields to obtain money as a form of loan. Thus, it can be concluded that the arrangement of lien on land is contained in customary law. Except for the return and redemption of the land, it is regulated by Article 7 paragraphs 1 and 2 of Law no. 56 Prp 1960. The article also regulates the time limit for the land mortgage for 7 years. If it has passed the 7 year period, the pawned land must be returned to the pawner without any redemption because the recipient of the pledge is deemed to have enjoyed the benefits of the land. Meanwhile, if the redemption is carried out for less than 7 years, the formula  $(7 + \frac{1}{2}) - (\text{time of pledge}) \times (\text{pledge}) \times 7$  applies. Which means that the payment of the mortgage on agricultural land is getting smaller according to the length of the pawn period. If it has passed the 7 year period, the pawned land must be returned to the pawner without any redemption because the recipient of the pledge is deemed to have enjoyed the benefits of the land. Meanwhile, if the redemption is carried out less than 7 years, then the formula  $(7 + \frac{1}{2}) - (\text{time of pledge}) \times (\text{pledge}) \times 7$  applies. Which means that the payment of the mortgage on agricultural land is getting smaller according to the length of the pawn period.

Apart from that, the Minister of Agriculture and Agrarian Regulation No. 20 of 1963 concerning the Guidelines for the Settlement of Pawn Problems which states that before the pledge ends the pawning holder adds his pawn, it must be done in writing in the usual way as when the pawn was made, but if the addition of the pawn is done in writing it will result in a new lien, and is valid since the pledge is added, whereas if the addition of the pledge is not made in writing, it will not result in a new pledge. The regulation also guarantees legal certainty in the implementation of pawning agricultural land.

And to provide legal certainty, land liens must be registered, this is based on Regulations Government No. 24 of 1997 concerning the Registration of Agricultural Land, Article 3a states that:

"Land registration aims to provide legal certainty and legal protection to holders of rights over a plot of land, apartment units and other registered rights so that they can easily prove themselves as holders of the rights concerned"

The existence of these laws and regulations is none other than to provide protection for both parties and to provide legal certainty over the legality of lien rights over land.

Kec. Patilanggio is an area where people practice pawning agricultural land. Based on the results of pre-research interviews conducted by prospective researchers, the community usually pawns the land they own if there is a very urgent need and need more funds for this purpose. The habit of pawning land in the community in the district. Patilanggio conducts a bargaining process first, the high and low price of the mortgage is determined by the condition of the land and the plants on the land. And if the pledge price offered by the pawner to the prospective pawning recipient is approved, then their

agreement is only proven by a receipt without involving the Village Head in making the deed of the pawning agreement for agricultural land.

In addition, the pawning of agricultural land which is usually carried out by the community is carried out in 3 (three) ways, namely: (1) The price of land pawning is still returned by the pawner to the recipient of the pledge if the period has expired, (2) The price of land pawning is not returned by the pawner (3) The third type is that the land pawner continues to work on the land that is pawned to the pledge recipient on the condition that the results of the cultivation will be shared based on mutual agreement. Therefore, the problems that the authors raise in this study are: (1) How is the practice of land pawning in the district. Patilanggio is viewed from a juridical-sociological perspective, and (2) How is the dispute settlement between the pawner and the pawner in the event of a dispute.

## **2. Literature Review**

### **a. Definition of Lien on Land**

The UUPA does not provide an understanding of what is meant by a Lien. According to Harsono (2017), Land Pawn is a legal relationship between a person and land belonging to another person, who has received the pledge thereof. As long as the pawning money has not been returned, the land is controlled by the pawn holder. During that time, all the land products became the right of the lien holder.

Pawning (Land Pawn) is the handover of a plot of land belonging to someone to another person, temporarily followed by the payment of a certain amount of money by another party in cash as a pledge provided that the land owner will only get his land back when redeeming with the same amount of money (Santoso, 2003).

Land pawn is the handover of land to receive payment of an amount in cash, provided that the seller has the right to return his land by redeeming it back.

### **b. Types of Land Pawn**

In view of the period of time, Lien rights can be divided into two, namely (Imam Sudiyat., 1978: 32):

#### **a. Lien (Land Pawn) of indefinite duration**

If the duration of the Lien (Land Pawn) is not determined, the owner of the agricultural land may not make redemption at any time, for example now being pawned, 1 or 2 months later it is redeemed. Redemption can only be made if the pawn holder has done at least one harvest period. This is because the Pawai (Land Pawn) is a land tenure agreement, not a money lending agreement.

#### **b. Land Pawn of the specified length**

In this Pawai (Land Pawn), the new land owner can redeem his land if the period promised in the Pawning Rights (Land Pawn) ends. If this period has expired and the land owner is unable to redeem the land, then it cannot be said that he committed default so that the pawn holder can sell the auction of the pawned land. If within the stipulated time limit the land owner cannot redeem it, then the pawning holder cannot force the land owner to redeem his land, and if the pawn holder continues to insist on selling the auction of

the pawned land, the land owner can sue the pawning holder unless the land owner can permit the sale. mortgaged land.

In principle, in the land pledge, the time of redemption is up to the pawner without any time limit or expiration.

**c. Agricultural Land Pawn**

Pawning on agricultural land is not just cash, but can also be in the form of gold. Heryanti (2019) explains that the collection of pawning money is based on an agreement previously held, not based on customary law. This can happen because in the agreement he made the pawner becomes the lessee of the land he mortgaged himself, with an agreement that if the lease of the pawning land is not paid, the pawn holder can claim the money back.

Over time, the value of money will change, as will the value of pawning for agricultural land. The more years the value of agricultural land pawning will decrease. Regarding the change of pawning money on agricultural land, the Supreme Court of Indonesia has ruled that the risk from changes in the value of the rupiah currency is borne in half by both parties.

According to Sudiyat (1981) if there is a difference in the value of money at the time of pawning and the time of redemption, it is in accordance with the sense of justice if both parties bear half of the risk of possible price changes from the measured rupiah value

**d. How to Redeem Pawn**

Regarding the method of redemption of pawn money, it is regulated in Law no. 56Prp of 1960 concerning the Determination of Agricultural Land Areas, namely:

- a) In Article 7 paragraph (1) it is stated that whoever controls agricultural land with a lien, which at the time this regulation has been in effect for 7 years or more, is obliged to return the land to the owner within a month after the existing plants have been harvested, with no rights. to demand payment.

On the basis of this provision, if the Pledge (Land Pawn) has lasted 7 years or more, then the land must be returned to the land owner without ransom within a month after the existing plants are harvested. It is assumed that if a pawn holder has worked on the farm for 7 years or more, his income will exceed the pawning money given to the owner of the farm.

- b) In Article 7 paragraph (2) it is emphasized that regarding the Pawning Rights (Land Pawn), which has not been implemented since this regulation has lasted 7 years, the land owner has the right to re-order it at any time after the amount is calculated according to the formula:

$$(7 + 1/2) - (\text{time the pawn lasts}) / 7 \times \text{pawn} = \text{Rp. .... ..}$$

With the stipulation that at any time the Pawn (Pawn for Agricultural Land) has lasted 7 years, the land pawn holder is obliged to return the land without payment of a ransom, within a month after the existing plants have been harvested.

Nurdin and Seniara (2019) states that a pawning relationship with an undetermined period of time is made by agreement and no redemption is allowed for a certain period of time. This means that such an agreement provides an opportunity for the mortgage buyer to work on the land maximally in accordance with the agreed time, but not more than 7 years. There can also be a pawning agreement for agricultural land without any time limit, but the pawn seller will still make redemption if he wants to regain control of his land before the 7 year time period. After 7 years then the seller the pawn can reclaim the land without having to make redemption. By handing over the pawning of agricultural land, it is carried out after the redemption is carried out or after seven years the pawning has taken place.

Before the pawn ends, the pawn buyer can add the pawn. According to Effendi Warin (1979: 304) based on Article 2 of the Regulation of the Minister of Agriculture and Agrarian Affairs No. 20 1963, before the pledge expires then the pawn holder adds the pledge, either in the form of money or other forms, in addition to this it must be made in writing in the usual manner as when the pledge was made. If the additional pawning is made in writing, a new pawning will arise with a new amount of money. Conversely, if the addition of the pledge is not made in writing, it will not result in a new pledge.

#### **e. Nature of Extortion in Liens (Land Pawn)**

According to Effendi Warin, land pawning contains an element of exploitation, because the results received by the pawnshop holder from the land concerned are generally much greater than what constitutes appropriate interest from the mortgage received by the land owner.

The nature of extortion in the Pawai (land lien) is:

1. The length of the land pawn is unlimited. For how many years the land is controlled by the pawnshop holder, the land will not return to the land owner if it is not redeemed.
2. The land can only return to the land owner if it has been redeemed by the owner. By controlling the land for just 6 to 7 years, the yield that the pawn holder can get has already exceeded the amount of the mortgage and the interest on the mortgage.

According to Parlindungan (1991), after controlling the rice fields for 7 years, the pawn recipient (the pawn holder) had tasted enough of the rice fields so that he had recovered the pawn that had been issued.

### **3. Research methods**

The type of research that will be used in this research is empirical normative research type. Where the techniques that exist in these two types of research will be used by the writer to analyze the problems that the writer will solve in answering the problem formulation.

The object of research that the author adopts in this study is the practice of Pawn of Agricultural Land. So this research requires primary data and secondary data. To obtain primary data, interviews and questionnaires were distributed to respondents both to farmers and from the local government. Meanwhile, for secondary data, literature search will be carried out.

## 4. Research Results and Discussion

### 4.1 Land Pawn Practice in Kec. Patilanggio in terms of juridical-sociological

All land rights have a social function. This can be found in Article 6 of the UUPA, namely: "all land rights have a social function". This social function does not only exist in land with ownership rights, but includes Building Use Rights, Business Use Rights, Use Rights, Building Lease Rights, and including Pawning Rights (land pawning) in practice it must reflect the social function of the land.

Pawning land is nothing new for the Indonesian people in general and for the people of Kec. Patilanggio in particular. Pawai (land lien) is included in secondary land rights. So that the land lien is not prohibited by law, but the application of the land lien must not be separated from the social function of the land so that there is no extortion. Below this will discuss the practice of land pawning by examining it both from a juridical and sociological point of view, so that it can provide a comparison between the legal basis and the existing reality, and provide a middle ground solution in the case of land pawning and minimize this gap.

#### a. Juridical Aspects of Land Pawn

As has been explained in the background of this research, that after the constitutional reform that has been carried out through the amendments to the 1945 Constitution, it has brought about very basic changes both in terms of governance and in the life of society and the state. One aspect that has changed is the aspect of Human Rights, especially in Article 28G paragraph (1) which reads:

"Everyone has the right to protection of personal, family, honor, dignity and property under their control, and to the right to feel safe and protection from the threat of fear to do or not do something that is a basic right"

From Article 28G paragraph (1) above, there is the phrase "property which is under his control", this shows that our constitution has provided legal protection to everyone or even to every legal subject to defend the property he owns.

According to the author himself, the use of the word "under his control" in the above phrase is not correct, because as if our constitution does not provide full constitutional protection to holders of property over property. Logic that if the use of the phrase "property under one's control" is encoded with the phrase "property that is owned" from the root of power and the root of property, of course, the stronger the position is the one who owns, not the one who controls. The one who controls does not necessarily own, the one who owns it does not necessarily master. However, holders of property rights have stronger rights than those who control them. So that according to the author it is more appropriate if the phrase reads "property which is under his control or in his possession".

However, the author does not discuss further from Article 28G paragraph (1) of the 1945 Constitution above, but as an initial introduction that the constitutional rights of every legal subject regulated in our constitution become commander or grundnorm (basic norms) which will become the benchmark in drafting legislation. invitation below.

Property that is protected by our constitution based on Article 28G paragraph (1) of the 1945 Constitution above certainly has a very broad meaning, including ownership rights to land. The legal basis for land ownership is of course not only regulates land ownership rights in a static manner, but also regulates ownership of land dynamically,

namely from the aspects of its authority, management, enjoyment of land use value, rights to guarantee the land, and even regulating rights ownership of land with all purposes and social and economic functions of the land.

One of the regulated land rights is land lien. Land pledge is one of the secondary land rights or so-called temporary land rights regulated in Article 53 of the UUPA and further regulated in Article 7 of Law Number 57 Prp of 1960 concerning the Determination of the Area of Agricultural Land Owned by One. Family.

The legal basis for lien (land lien) on the land is:

- a. Article 28G paragraph (1) of the 1945 Constitution
- b. Article 29 paragraph (1), Article 36 paragraph (1), (2), and paragraph (3) of Law No. 39 of 1999 concerning Human Rights
- c. Article 53 paragraph 1 of Law No. 5 of 1960 concerning Basic Agrarian Principles
- d. Article 7 of Law No. 56 Prp of 1960 concerning the Determination of the Area of Agricultural Land Owned by One Family
- e. Article 3a Regulation Government No. 24 of 1997 concerning Agricultural Land Registration
- f. Minister of Agriculture and Agrarian Regulation No. 20 of 1963 concerning Guidelines for Solving Pawn Problems

Of the various legal bases regarding the above land mortgage, none other than to provide legal protection between the two parties, both the pledge giver and the pledge recipient.

### **b. Sociological Study of Land Pawn Practices in Kec. Patilanggio**

Basically, land pawning arises in the community because someone needs money by making his / her own land and the plants on it as collateral in the form of land pawning. Usually someone mortgaged his land only in urgent circumstances. If there is no urgent need, people are more likely to manage their own agricultural land or rent it out to others.

#### **a) Reasons for the Community Pawning the Land**

Based on the custom of the people of Gorontalo, the term pawning is known as Pohulo'o or Mopohulo'o and has long been developing in Gorontalo. In the District. Pohuwato especially in Kec. Patilanggio pawning land in general in rice fields or other plantations and mortgaging land has become something that can be done by some communities. This is also an alternative solution when there is a very urgent need that requires more funds to meet these urgent needs.

Based on the research results by distributing questionnaires to 15 respondents in 5 (five) villages (Manawa, Suka Makmur, Iloheluma, Dudepo, Balayo) in Kec. Patilanggio, all respondents answered that land pawning was only done by residents when there was a very urgent need. For this type of urgent need, the respondent did not explain what it was, but in essence, it was true that the community in land pawning was done when the need was very urgent.

#### **b) Proof of Agreement and Payment of Land Pawn Prices**

Whereas in the case of the bargaining process, it is usually the pawner who first offers a price bid to the prospective pawning recipient and the price of the land pawn offered depends on the fertility of the land and the plants on it. And before there is an agreement between the two parties' defense, the prospective pawning recipient usually visits the object of the land pawn, if the prospective land pawn recipient likes, then an agreement occurs between the two parties and continues with the delivery of the pawn which is only proven by a receipt as proof of payment from the price of pawning the land without involving the Village Head for the preparation of a pawning agreement for agricultural land. This can be seen in table 1 below:

**Table 1.** Evidence of Land Pawn Agreement

No.	Villagers	The Pawnman	Pawn Receiver
1	Manawa	Receipt	Receipt
2	Suka Makmur	Receipt	Receipt
3	Iloheluma	Receipt	Receipt
4	Dudepo	Receipt	Receipt
5	Balayo	Receipt	Receipt

So based on the data table 1 above, it shows that the pawning agreement between the pawning giver and the pawning recipient is only proven by a receipt as proof of agreement and at the same time proof of payment of the land pawn price.

c) Types of Land Pawn in Kec. Patilanggio

Regarding the types of land pawning methods, based on the results of the research there are 5 (five) methods used by the residents of Kec. Patilanggio, namely:

1. The price of land pledge is still returned by the pledge provider to the pledge recipient when the period has expired. For example, A pawns 1 hectare of land to B with a mortgage price of Rp. 10,000,000, - (ten million rupiah) with a period of 2 years. If it has been 2 years, then A as the pawner must return the capital of the mortgage to B as the recipient of the pledge. And if A has not been able to return the mortgage capital, the land mortgage will continue until A can return the mortgage capital.
2. The price of pawning (pawning capital) for land is not returned by the pledge provider to the pledge recipient when the period expires. This type of land pledge does not have to return the land pawning capital to the pawning recipient and usually has a long period of time. Based on the results of an interview with Arman Tangahu, the Sekertaris of Suka Makmur Village on December 18, 2017, he explained that the custom of people in ancient times to pawn their land without returning the pawning price (pawning capital) usually had a very long period of time, so that some people mortgaged their land for more than 7 years even 10 years. The land that is pawned is usually empty land, so if the pawn recipient wants to get the results from the land, they have to cultivate it themselves, such as sawa, planting rica, tomatoes, vegetables, milu and others.
3. Land pawn with a tax system. Pawn land in this way the residents of Kec. Patilanggio used to call it the term tax. The author himself prefers to use the term lien tax, so that the reader can dissect the PBB tax. This type of land pawning is usually carried out on coconut trees whose calculations are not based on the length of time the pawns took, but based on the frequency of harvest by the recipient of the coconut tree. For example, A, as the pawner, pawned his

coconut trees to B as the recipient of the pledge of 100 trees with a mortgage price of Rp. 10,000,000, - (ten million rupiah) provided that 3 (three) harvests and Person A no longer have to return the mortgage capital to Person B if they have harvested 3 times.

4. The fourth type is that the land pawner continues to work on the land that is pawned to the pawning recipient on the condition that the results of the cultivation will be shared based on mutual agreement. So that the status of the pawnbroker is as a pawn shop worker as well as as a pawner. This usually happens when the pawn recipient cannot cultivate the land that is held by the pawn. However, there is still a time limit that has been agreed by both parties.
5. Land pawn without any clear time limit provisions, but only based on the ability of the pledge giver, until when the pledge giver can return the pawning money to the pledge recipient So that many residents pawned their land for up to 10 years or even more because it was based on the ability of the pawnbroker and the main source of income had been mortgaged.

Of the five types of pledge methods mentioned above, not one has actually pledged land based on the provisions in the prevailing laws and regulations. Everything is only based on the habits of society. Even though it is not in accordance with the prevailing laws and regulations, this is still accepted by the community because it has become a habit in society when more funds are needed in an urgent situation.

d) Land Pawn Period Based on Questionnaire Results in Kec. Patilanggio

In addition, the practice of land pawning in the district. There are still Patilanggio that keep from the stipulated time limit. This can be seen in Table 2 below.

**Table 2.** Duration of Land Pawn Based on the Results of the Questionnaire

No.	Villagers	The Pawnman	Pawn Receiver	Village Head / Village Officials
1	Manawa	10 years	3 years	10 years
2	Suka Makmur	2 years	3 years	10 years
3	Iloheluma	10 years	5 years	4 x Harvest
4	Dudepo	3-4 Years	2 years	5-6 Years
5	Balayo	5 years	2 years	There are no limits

Based on the data on the time period for land pawning based on the results of the above questionnaire, 4 of the 15 respondents answered that the time period for land pawning was more than 7 years, in this case up to 10 years. These data indicate that the practice of land pawning in Kec. There are still Patilanggio that exceed the time limit set by law. So this tends to contain elements of extortion because it has a very long period of time and is detrimental to the party who gives the pledge. And the pawner still has to return the pawning money to the party who receives the pledge. This happens because the calculation is not carried out based on the formula stipulated in Article 7 paragraph (2) of Law no. 56 Prp 1960.

e) The View of Pawnors / Pawn Recipients / Village Heads-Village Officials Luckily for Pawning Land

Besides having the element of helping, land pawning is also considered to contain the element of extortion. Because as long as the pledge giver, in this case the land owner, cannot plow the land, the land is still controlled by the pawner.

**Table 3.** Views / Opinions Regarding the Pros and Cons / Pawning / Land Pawn Results Based on the Results of the Questionnaire

No.	Villagers	The Pawnman	Pawn Receiver	Village Head / Village Officials
1	Manawa	Loss	Satisfactory	Harm the Giver
2	Suka Makmur	Loss	Very good	Win-win solution
3	Iloheluma	No Loss	Satisfactory	Harm the Giver
4	Dudepo	No Loss	Not bad	Pawn Receiver
5	Balayo	No Loss	Satisfactory	Nothing to lose

Based on the data in table 3 above, it can be concluded that the practice of land pawning in Kec. Patilanggio tends to be more profitable for the party receiving the pawn. This can be seen in table 3 above, out of 15 respondents, both from the elements who gave the pawn, the recipient of the pawn, and the village head / village official from the party who gave the pawn, only 2 people answered loss, and 3 people answered no loss. From the pawn recipient, out of 5 respondents all of them gave very satisfying answers. Meanwhile, from the village head / village apparatus, 2 respondents answered that it was detrimental to the pawner, 2 respondents answered that it was mutually beneficial or no one was harmed, and 1 respondent answered that it was detrimental to the pawn recipient. But based on the results of the questionnaire, even though the pawner feels a loss, if there is a very urgent need,

**Table 4.** Profit-loss Opinions in making Land Pawning

No.	Villagers	The Pawnman	Still Mortgaged or Not
1	Manawa	Loss	Still want to pawn more
2	Suka Makmur	Loss	No longer
3	Iloheluma	No Loss	Still want to pawn more
4	Dudepo	No Loss	No longer
5	Balayo	No Loss	Still want to make it

Based on the results of the above questionnaire regarding the pawning party in terms of the advantages and disadvantages of pawning the land and whether or not the land is pawned, out of 5 (five) respondents who gave the pawning, there were 2 (two) respondents who answered loss and 3 (three) respondents answered nothing to lose. And in terms of whether or not they want to mortgage their land, 1 (one) respondent answered that they lost their land to pawn their land, but if at any time they need money they still want to pawn their land. Likewise, 1 respondent answered that it was not a loss to mortgage his land but even though he needed money from time to time, he no longer wanted to pawn his land. And 1 respondent answered that he had a loss and did not want to pawn his land anymore. Two respondents answered that they had nothing to lose and that they still wanted to pawn their land if there was a very urgent need.

f) Points of Land Pawn Problems in Kec. Patilanggio

According to the author, the point of the problem in this study is not the benefit of the pawn recipient and the loss of the pawner. Because basically no one wants to hold a pawn of agricultural land but the results are detrimental. The pawnbroker pawned his land, it is certain that he already knew he would suffer a loss. But because the basis is because of a very urgent need, so inevitably they have to mortgage the land they own. And the losses suffered by the party giving the pledge are not included in the object of legal problems, but are more likely to be social and economic problems. But what becomes the problem is that if the practice of land pawning is carried out not based on the applicable legal provisions and as a result it is detrimental to the party giving the pledge then this is the real problem. And this problem is what happened in Kec. Patilanggio. The most important points of the problem here are:

1. The land pawning agreement is only proven with a receipt and does not involve the village head in making the land pawn deed, so it cannot be registered at the BPN Kab. Pohuwato.
  2. The period of time for land pawning is more than 7 years and even more than 10 years. So, even though the period of the pawn is more than 7 years, the party who gives the pledge still has to return the pawning money (capital of the pawn) to the pawn recipient.
  3. Pledge redemption is not based on applicable legal procedures. In this case it is not in accordance with Law no. 56 Prp of 1960 concerning the Determination of the Area of Agricultural Land Article 7 paragraph (2) in which the redemption of pawning must use the formula:  $(7 + \frac{1}{2}) - (\text{time of pawn}) \times (\text{pawn}) \times 7$  ". Which means that the payment of the mortgage on agricultural land is getting smaller according to the length of the pawn period.
- g) Reasons for Residents to Remain Pawning Land and Not Borrowing Money at Banks

Although the practice of land pawning is detrimental to the pawner, in fact the community still prefers to mortgage their land, rather than borrowing money from the bank by making the land as collateral as the object of collateral for mortgage. Under this, it explains the reasons that the pawner would prefer to mortgage his land to fellow citizens than to borrow money from the bank by becoming the land as the object of collateral for mortgages.

**Table 5.** Reasons in Pawning the Land instead of Borrowing Money at a Bank

No.	Villagers	The Pawnman
1	Manawa	Too many convoluted processes at the bank
2	Suka Makmur	Because the bank is too difficult and there are many requirements that must be met
3	Iloheluma	The bank is too complicated
4	Dudepo	Too many conditions
5	Balayo	Too complicated, many requirements that must be met

If seen from the data in table 5 above, of the 5 (five) respondents who gave the pledge gave an answer that the point was that the reason residents preferred to mortgage land to fellow residents rather than borrow money at the bank was because borrowing money at the bank was too complicated, many conditions that must be met, and convoluted. So it feels like it eliminates or minimizes the practice of pawning the land even though it is considered to contain elements of extortion.

#### **4.2 Settlement of Disputes Between Pledge Pledge and Pledge Recipients If Dispute Occurs**

Members of the community who are building will not be able to prevent the effects of their various activities from rubbing against one another. In this shift, it is inevitable that conflicts will occur which will eventually manifest as a dispute or misunderstanding that can occur at any time. At first glance, these contingencies seem insignificant and small, so they may be ignored, but suddenly appear without prior calculation.

Disputes are not what the parties want. However, it is possible for this to arise in the legal relationship between the two parties. So that the dispute was brought to the dispute settlement institution or even to the court to seek justice.

The judiciary, apart from being an institution for the resolution of various dispute cases, is also an institution that is trusted to provide a sense of justice to the justice-seeking community through a judge's decision. Basically the duty of the judge (Lili Rasjidi and Ira Thania Rasjidi., 2004: 93) is to give a decision in every case or conflict faced by it, determine matters such as legal relations, the legal value of behavior, and the legal position of the parties involved in a case, so as to be able to resolve disputes or conflicts in an impartial manner based on the law applies, the judge must always be independent and free from the influence of any party, especially in terms of constructing his decision.

The judge is considered to be the party examining and wise, so the parties bring their problems to be tried. And in general, people who go to court are people who have problems and seek justice and it is the judge who is tasked with providing justice to justice seekers through their decisions.

Legal disputes arise because of the legal relationship between the two parties. The legal relationship that is meant here is a legal relationship that arises from the field of civil law, namely whether it is a legal relationship (engagement) that is born because of the basis of an agreement or a legal relationship that is born due to the provisions of law.

One of the legal relationships that arose from the agreement was a land pawn agreement. Whereas land pawning, according to Harsono (2017), land pawning is a legal relationship between a person and land belonging to another person, who has received the pledge thereof. As long as the pawning money is not returned, the land is controlled by the pawn holder. During that time the entire land yield became the right of the lien holder. The return of the mortgage, or what is commonly called redemption, depends on the ability of the land owner to mortgage the mortgage. Many pawns last for years or even decades because the land owner has not been able to carry out redemption.

The same thing happened in Kec. Patilanggio. Many land pawning practices last for decades. For more details, see table 2 in the research results of the first problem formulation above.

Based on the results of an interview with one of the residents of Suka Makmur Village on behalf of zakir (a pseudonym) on December 20, 2017, he explained that he had received a land pawn, in this case vacant land, then he worked on the land by planting rica and jagun. But after the plant grows fertile, the landlord, in this case the land owner, sells the land that was pawned to Pak Zakir without Pak Zakir's knowledge. This dispute was finally brought to the village office for discussion. In the process of

deliberation, the pawner offers to pay the pawning money and reimburse all costs for maintaining the corn and rica plants that have been planted by the pawn recipient. However, Mr. Zakir refused because the offer was considered to be detrimental to him.

While the second case occurred in Iloheluma Village, this case is based on information from the village apparatus, in this case Mr. Cipto Yusup, who was the author of the interview on December 20, 2017. The series of cases involved pawning, in this case Mrs. Sartin (pseudonym) offered his land to be mortgaged to Mr. Abdul Rasak (pseudonym) for 2 years at a pawning price of 15 million rupiah, but after an agreement between the two parties was only proven by a payment receipt one month later the pawner ordered the land back on the grounds that there are others who want to accept a higher price for their land mortgage. Finally, the case was brought to the Iloheluma village office for discussion. In the deliberation process, neither party who gave the pawn nor the recipient of the pawn wanted to give in.

Meanwhile, in the third case, Mr. Harif (pseudonym) received a land pledge from Mr. Rasyik (pseudonym), a resident of Buntulia Village for a pawning of 10 million rupiah over a period of 2 years. Due to the fact that copra prices rose after being pawned, the pawning party ordered the land to be pawned again before the period ended. However, this case was only resolved by deliberation between the two parties without involving the village head. And the pawn recipient only adds the pawn price.

So the conclusion is a form of dispute settlement between the land pawner and the land pawn recipient of the residents in the district. Patilanggio is by way of deliberation, involving the village head or only by deliberation between the pawner and the pawn recipient.

## 5. Conclusion

The practice of land pawning in the district Patilanggio still keeps the provisions of the applicable laws and regulations. So that it is more likely to harm the party giving the pledge and is not based on the principle of helping. But even though the community realizes that pawning their land is detrimental to them, this is still done by residents as the last solution to meet urgent needs and has become a habit of the community, so that the practice of land pawning has been going on as a matter of course and does not become a problem. The form of dispute settlement between the land pawner and the land pawn recipient of residents in the district. Patilanggio is by way of deliberation, involving the village head or only by deliberation between the pawner and the pawn recipient.

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