

## A Legal Analysis of Judges' Decisions as a Result of the Law Decree of the TNI Commander (Case Study of Surabaya PTUN Decision No. 124/G/2014/PTUN.SBY)

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b>            TNI Commander            Decree;            Dispute;            Administrative            Court;            Decidendi;            Consequences.</p>	<p><i>This study examines the legal consequences of the Decree of the TNI Commander regarding land ownership disputes in Lidah Kulon Village, Surabaya, as addressed in Decision No. 124/G/2014/PTUN.SBY. The case involves claims from 156 individuals asserting ownership over 8.5 hectares of land, initially granted for TNI-AL members. The research highlights legal complexities arising from conflicting decrees, including Skep/29/IV/1993, and subsequent agreements involving PT. Ciputra Graha Prima Surabaya. Using normative legal research methods, this study analyzes the judicial considerations, ratio decidendi, and procedural limitations in the State Administrative Court (PTUN). The findings reveal that the object of the lawsuit does not fulfill the criteria of a concrete, individual, and final State Administrative Decision as defined by Indonesian law, leading to its inadmissibility (Niet Ontvankelijk verklaard). This research underscores the importance of transparency and adherence to legal frameworks in resolving administrative disputes involving state agencies and individual rights.</i></p>

### INTRODUCTION

Regarding the summary of the land problem and its legal position, that: Land measuring ±8.5 Ha in Lidah Kulon Village, Surabaya, Lakarsantri District, Surabaya City, namely based on the Decree of Kodamar -4 Number: 4535.1 dated May 7, 1963, the substance of which is regarding " **Land Acquisition for the Welfare of Soldiers /Members TNI-AL and to prevent irresponsible and unlawful actions by TNI-AL members who obtain land illegally/** encroaching, then perfected with the amendment of Decree Number 4535.1 dated 15 May 1964, the contents of which are :

- Land is divided into bags on the basis of age within the TNI - AL service (according to registration order & group), which consists of:
  - a. Goal ongan Officer & P NS EI I up to the top;
  - b. Non-commissioned officers & privates & civil servants from group B up to EI ;
  - c. Land Prices Determined by Committee;
  - d. Cash Payment Starting from 1965 Period;
  - e. Plot Area:
    - Class A is 20 X 26 M<sup>2</sup>
    - Group B, namely 15 X 26 M<sup>2</sup>

The Commander of the Navy Regional Command -4 (Commander of Kodamar AL-4) sent an official letter to the Mayor of Surabaya Number: B.185/04/17/7/Set Dated September 9, 1976 Subject: **Replacement** of TNI-AL land in Dukuh Pakis and **handover** of TNI-AL Kenjeran land for the expansion of THP (Coastal Entertainment Park) In point 2, it reads: "According to the letter in Ref b. in principle (Commander of Kodamar AL-4) agrees to it "The Surabaya City Government is requested to send a complete land image with boundaries and building blocks in Lidah Kulon Village, Lakarsantri District, Surabaya, covering an area of ± 8.5 Ha to the Commander of Kodamar AL-4 as stage II **compensation** ."

Next is: The Surabaya Agrarian Sub-Directorate Office on October 20, 1976 issued a "Land Area Calculation" (PLL No. 51/1976) in the name of **Paidjan et al. 35 people**, namely: List of the land objects in question, as the legal  **Holders of Original Land Rights**, a total of 35 (thirty-five) Farmers and/or original owners domiciled in Lidah Kulon Village and Jeruk Village, namely respectively named: Paidjan, Teman Pak Tedjo; Kasbi bin Rais, denun Pak Ponukan; Sahari; Seniman; Sitinuh bok Gunawan; Asib bin Buhasim; Kamidin Pak Kaslani; Sampun bin Sowu; Sampak Siman; Rachmat; Abdurachman; Subur; Napisah; Tomo; Kasiah bok Awi; Kasiah bok

Awil (twice the name); Maruni; Kasdram; Kasdram (twice the name); **Markiamin** ; Soniman; Maruni; **Ami bok Drawi**; **Ami bok Drawi (twice name)** ; Dulmadjid; Ngadiman; Moch. Naim; Gimin, Wiro Pak Djulaikah; Selan; Redjodullah; Temo; and Mata'i. (The names are quoted according to the list from Sub Agrarian) , which consists of **State Land and Yasan Land** and which was released by PT. Seruni Surabaya which is located at Jl. Rajawali No. 9 Surabaya , covering an area of ± 8.5 Ha, in Lidah Kulon Village from the original Land Owner.

Then a n. The Mayor of KDH TK II Surabaya, "Head of Sub Directorate of Agrarian Affairs" held by Imam Moekani, issued a "**List of Land Area**" located in East Java Province; Surabaya City; Lakarsantri District; Lidah Kulon Village; Attachment: **Calculation of Land Area ( PLL )** No. 51/1976, consisting of "**Quoted** ";

Land Area : 50,796 m<sup>2</sup>, land rights in the form of Petok-Petok;

Land Area Ex. HGB : 41,354 M<sup>2</sup>, land rights base in the form of B; 5; 7 seb;

Total area : 92,150 M<sup>2</sup>

The Chief of Staff of the Indonesian Navy Regional Staff-4, gave a **Power of Attorney ( NOT A LETTER OF ORDER )** to the Head of the Agrarian Section of the Regional Public Service-4 dated November 10, 1976 Number: 18.KU/110/XI/1976, to carry out the Land Exchange Agreement with PT. Seruni Surabaya, which is located at Jl. Rajawali No. 9 Surabaya, and is stated in the Notarial Deed of PPAT ST. Sindhunatha, SH dated November 17, 1976 Number 78. The land objects exchanged are: "**Land in Dukuh Pakis exchanged in Lidah Kulon Village, Lakarsantri District, Surabaya City, based on legal references**":

a) Decree of the Mayor of Surabaya dated 23 August 1976 No. 57/SK/T/76;

b) Principle Permit from the Surabaya Municipal Government dated 20 August 1976 Number: 6902/176;

c) Approval/Permit from the Mayor of Surabaya dated 21 September 1976 Number: 7804/147;

d) The land situation map of Lidah Kulon Village, Surabaya was issued by the Mayor of Surabaya, KDH TK-II, Head of the Agrarian Directorate on September 2, 1976;

e) And then the publication of the Plot Map on November 11, 1976.

Furthermore , the Commander of Lantamal III Surabaya (now Lantamal V), issued a Decree dated April 8, 1993 Number: Skep/29/IV/1993 Concerning: Replacement **of the Location of Land Plots for TNI-AL Members which was originally in Dukuh Pakis Replaced in Lidah Kulon Surabaya** , along with **the attachment of the names of 156 owners**, then the boundaries of the land area of ± 8.5Ha are: North: green belt; East: Jl. Lontar/Islamic Cemetery; South: People's Land (built by PT. Ciputra Graha Prima); West: People's Land (built by PT. Ciputra Graha Prima).

In general, there are several types of problems arising from land disputes, including:

1. Issues concerning priority can be determined as the legitimate rights holder for land with title status or for land for which no rights are yet available.
2. Refutation of a basis for rights or proof of acquisition used as a basis for granting rights.
3. Mistakes/mistakes in granting rights caused by inadequate or incorrect application of regulations.
4. Disputes or other problems that contain social aspects
5. The existence of a Decree from the TNI Commander in Chief which supports the control of land by the TNI-AL institution, even though the land should belong to TNI-AL members.

In this study, the author explains the legal consequences of the issuance of the Decree of the TNI Commander/ State Administrative Decree (KTUN), by Government/State Officials, or State Civil Apparatus Officials, which have harmed the community, in this case regarding "land ownership by 156 people", and have caused disputes in the State Administrative Court (PTUN).

According to Article 1 paragraph (3) of Law No. 5 of 1986 in conjunction with Law No. 51 of 2009 concerning State Administrative Courts, " A State Administrative Decision is a written determination issued by a State Administrative body or official containing State Administrative legal actions based on applicable laws and regulations, which are concrete, individual and final, which have legal consequences for a person or civil legal entity (Prayogi, 2019). "

Meanwhile, in Article 1 paragraph (4) of Law No. 5 of 1986 in conjunction with Law No. 51 of 2009 concerning State Administrative Courts, namely: " State Administrative Disputes are "Disputes that arise in the field of State Administration between individuals or civil legal entities with state administrative bodies or officials, both at the center and in the regions, as a result of the issuance of State Administrative decisions, including personnel disputes based on applicable laws and regulations" (Prayogi, 2019).

Regarding the settlement of this State Administrative dispute, according to Article 47 of Law No. 5 of 1986 in conjunction with Law No. 51 of 2009, namely: " The court has the duty and authority to examine, decide, and resolve State Administrative disputes" (Prayogi, 2019). In the event of a dispute between the Government and the community, a settlement can be submitted through the State Administrative Court or abbreviated as PTUN, namely by filing a lawsuit first. The filing of the lawsuit is of course based on certain reasons. The reasons for filing a lawsuit with the PTUN according to the provisions of Article 53 of Law No. 5 of 1986 in conjunction with Law No. 51 of 2009, namely:

- (1) A person or civil legal entity who feels that their interests have been harmed by a State Administrative Decision may file a written lawsuit with the competent Court containing a demand that the disputed State

Administrative Decision be declared null and void or invalid, with or without a claim for compensation and/or rehabilitation.

(2) The reasons that can be used in a lawsuit as referred to in paragraph (1) are:

- a) The State Administrative Decision being challenged is in conflict with applicable laws and regulations;
- b) The State Administrative Agency and/or Official at the time of issuing the decision as referred to in Paragraph (1) has used its authority for a purpose other than that for which the authority was granted;
- c. When issuing or not issuing a decision as referred to in Paragraph (1), the State Administrative Agency or Official must not, after considering all the interests involved in the decision, decide whether or not to make the decision.

Although the State Administrative Court (PTUN) has the authority to settle a lawsuit, the submission by the community whose interests have been harmed is limited by time. Furthermore, Article 55 explains that: "A lawsuit can only be submitted within a period of 90 (nine) days." (ten) days from the time of receipt or announcement of the Decision of the State Administrative Agency or Official".

In the case that the thing to be sued is a decision, according to the provisions in Article 3 paragraph (2), which reads: " If a State Administrative Agency or Official does not issue the requested decision, while the time period as determined in the relevant statutory regulations has passed, then the State Administrative Agency or Official is deemed to have refused to issue the decision in question." Meanwhile, in Article 3 paragraph (3), it reads: "In the case that the relevant statutory regulations do not determine the time period as intended in paragraph (2), then after a period of four months has passed since the receipt of the application, the State Administrative Agency or Official in question is deemed to have issued a decision of rejection. "

So based on the basic regulations, it is determined that a decision must be announced, so the 90 (ninety) day time limit is calculated from the day of the announcement, which is stated in the Surabaya PTUN Case. Number: 124/G/2014/PTUN.SBY. This research focuses on the Legal Analysis of Judge's Decision, the case Number: 124/G/2014/PTUN.SBY. In this case, the dispute between FX. Moedjari et al. as the Plaintiffs, against the Commander of the Indonesian National Army (TNI) as (Defendant) is explained.

It can be known about the dispute is Considering, that the Plaintiff with his lawsuit letter dated August 27, 2014 was registered at the Registrar's Office on the date of the Surabaya State Administrative Court. August 27, 2014. with case register Number: 124/G/2014/PTUN SBY, after going through the Preparatory Examination process, the lawsuit letter has been revised and accepted by the Court on October 28, 2014 by stating the reasons for the lawsuit as follows:

#### **A. Object of the Lawsuit**

Disputes between individuals and society cause the balance and tranquility of society to be disturbed and must be restored. If there is a dispute between individuals and state apparatus (government), then this is generally resolved by the district court, which in most cases has less than satisfactory results because disputes between the people (society) and the government arise in a special matter, namely the field of state administration which is not the same as civil disputes tried by the district court. For this purpose, judicial bodies are formed to carry out state administrative justice.

That what is meant by State Administrative Dispute (TUN) is as a benchmark for the basis of the dispute, namely an administrative dispute caused by a stipulation as a result of an act of state administrative determination (Ilma et al., 2025). State administration in carrying out its duties carries out various actions. State administrative actions that give rise to administrative disputes, both internally and externally, are certainly closely related to legal actions carried out by the state administration itself.

State Administrative Disputes (TUN) are disputes that arise in the field of State Administration between individuals or civil legal entities with State Administrative bodies or officials, both at the center and in the regions, as a result of the issuance of State Administrative Decisions (KTUN), including personnel disputes based on applicable laws (Article 1 number 4).

The term 'stipulation', in this case there is no consensus among many administrative law experts. Often used other equivalent words, such as; *beschikking* or determination, letter of determination, determination. However, the meaning is the same, it is a written decision from the state administration that has legal consequences for organizing government (in the narrow sense). On that basis, the determination determines the concrete legal situation and has legal consequences for those affected.

The object of the dispute, which resulted in the lawsuit being filed at the State Administrative Court in Surabaya, is: Decree of the Commander of the Indonesian National Armed Forces (TNI), Number: B/3583-09/01/117/Kum, dated 8 September 2011, Concerning the TNI-AL land problem in Lidah Kulon Village-Surabaya, hereinafter referred to as the Object of Dispute;

#### **B. Authority of the State Administrative Court**

According to scholar *Friedrich Julius Stahl* in a country of law formally in principle and in general all acts that harm any person or the rights of any person can be supervised by the court (Ilma et al., 2025), while *the review* can be channeled through the State Administrative Court or regular/general court. The State Administrative Court is a means of *control on the administration*. The State Administrative Court is one of the implementers of justice for the people seeking justice for State Administrative disputes.

Article 47 of Law Number 5 of 1986 states that: The court has the duty and authority to examine, decide, and resolve State Administrative disputes. From the provisions above, it can be concluded that the State Administrative Court has a judicial function.

1. Considering that Plaintiff 1 (FX. MOEDJARI / Retired Marine Lieutenant Colonel), only found out about Object of Dispute I, after receiving a Copy of the Object of Dispute Letter from Mr. Soeprajitno, First Admiral TNI Retired on July 17, 2014 and on June 19, 2014 Plaintiff-1 also only found out about Object of Dispute II from Mr. SOEPRAJITNO, First Admiral TNI Retired. Meanwhile, Object of Dispute III, the Plaintiffs only found out about during the examination of the preparations indicated by Defendant III, so that the Plaintiffs' lawsuit was registered at the Registrar's Office of the Surabaya State Administrative Court on August 27, 2014, then in accordance with the provisions of Article 55 of Law Number 5 of 1988 concerning the State Administrative Court, the filing of this lawsuit is still within the 90 (ninety) day grace period from the time the Defendants' decision letter was received/knowledged.
2. That based on Article 1 number 5 of Law Number 5 of 1986 concerning the State Administrative Court in conjunction with Article 1 number 9 of Law Number 51 of 2009 concerning the Second Amendment to Law Number 5 of 1986 concerning the State Administrative Court defines a State Administrative Decision as. "A written determination issued by a State administrative body or official containing legal actions based on applicable laws and regulations, which are concrete, individual and final, which have legal consequences for a person or civil legal entity", then the defendants' decision letter is a written decision containing a written determination (*beschikking*) and is immediately effective since it was issued by the official who made it (*einmalig*). That the defendants' decision letter is concrete, individual and final with the following basis:
  - That the decision letter of the defendants *quo* is concrete because what is stated in the decision letter of the defendants is not abstract, but is tangible and real in a clear manner.
  - That the decision letter of the defendants *quo* is individual in nature because it is not addressed to the public, but is tangible and clearly states the names of the plaintiffs.
  - That the decision letter of the defendants *quo* is final because it no longer requires approval from certain agencies, either horizontally or vertically. Thus, the decision letter of the defendants is final and has given rise to legal consequences.
  - That the decision letter of the defendants *quo* also has legal consequences.
3. That based on Article 53 paragraph 1 of Law No. 5 of 1986 in conjunction with Law No. 9 of 2004, it states "A person or civil legal entity who feels that their interests have been harmed by a State Administrative Decision may file a written lawsuit with the competent Court containing a demand that the disputed State Administrative Decision be declared null and void or invalid with or without a claim for compensation and/or rehabilitation."

Based on the description above, the Defendants' decision letter has fulfilled the requirements as an object of the lawsuit in the *a quo case*, and based on the background above, the Author has taken the title of this Thesis, namely: **"A Legal Analysis of Judge's Decisions as a Legal Consequence "Decree of the TNI Commander" (Case Study of Surabaya PTUN Decision) No. 124/G/2014/PTUN.SBY).**

The legal framework governing land disputes in Indonesia, particularly those involving military decrees, is complex and multifaceted. Indonesian law has long recognized the importance of land ownership for individuals and entities, with the Basic Agrarian Law (UUPA) establishing principles regarding land use and ownership. However, disputes involving military institutions and civilians add a layer of complexity that requires a detailed understanding of both civilian and military legal regulations. The TNI Commander's Decree in Surabaya presents a unique case study that highlights the intricate relationship between military decrees and civilian property rights, providing a valuable opportunity to explore how legal systems handle such conflicts (Muttaqin, 2024) (Suparno, 2023).

Land disputes are not only legal issues but also social ones, as they often involve significant stakes for local communities. The conflict in Lidah Kulon Village, for example, is about much more than legal ownership—it also involves social justice and the equitable distribution of land rights. The military's involvement in land management, particularly in terms of reallocating land from civilian to military purposes, raises questions about the balance of power in such disputes. Examining these disputes from a legal perspective allows for a deeper understanding of how Indonesian courts address conflicts where military interests are at odds with civilian rights, and whether the courts effectively protect the interests of civilian landowners (Andita, 2022)(Sugiyono et al., 2020)

Moreover, the Indonesian legal system has mechanisms for resolving state administrative disputes, primarily through the State Administrative Court (PTUN). However, cases involving military decrees present particular challenges. The PTUN is tasked with resolving disputes between individuals or civil entities and the state administrative bodies or officials. But when military decisions are involved, it often becomes unclear whether such decrees can be considered valid state administrative decisions. This uncertainty can delay resolution and perpetuate disputes, which undermines the fairness and efficiency of the legal system. Therefore, exploring how military decrees are interpreted and applied in the PTUN system is essential for improving judicial outcomes in such cases (Ramiyanto, 2016); (Roitman & Rukmana, 2022).

The concept of "concrete, individual, and final" decisions, which is central to the functioning of the PTUN, has often been a point of contention in cases like this one. Military decrees, while affecting individual land rights, may not always meet these criteria. As illustrated in the Surabaya case, the court concluded that the TNI Commander's Decree was not concrete, individual, or final, leading to the dismissal of the lawsuit. This decision raises concerns about the clarity of legal definitions and how they apply to military-related administrative actions. The need for clearer legal standards governing military decrees and their implications for civilian rights is evident and forms a key area of focus for future legal reforms (Rukmana & Judge, 2023)(Sugiyono et al., 2020).

In the case of the TNI Commander's Decree, the court's decision to dismiss the case based on technicalities such as the failure of the decree to meet the legal definition of a state administrative decision underscores the importance of procedural clarity in state administrative disputes. Understanding the procedural aspects of the PTUN is crucial for ensuring that individuals and entities are able to effectively challenge decisions that impact their rights. Legal scholars and practitioners alike must pay close attention to how these procedures are applied in cases involving military bodies, as the outcomes of such disputes can have profound consequences for both the affected individuals and the broader legal system (Muttaqin, 2024) (Suparno, 2023)

Additionally, this study emphasizes the importance of transparency and accountability in the administrative processes, particularly when military institutions are involved. The case in Surabaya reveals a lack of transparency in the land transfer processes between the TNI-AL institution and PT. Ciputra Graha Prima, leading to financial compensation issues for the civilian landowners. Transparency is essential not only for ensuring fairness in decision-making but also for fostering public trust in legal institutions. The military's role in land administration should be subject to the same transparency and accountability measures as any other state agency, which will ultimately contribute to more equitable and legally sound outcomes for all parties involved (Mashdurohatun et al., 2023)(Sugiyono et al., 2020)

Lastly, the broader implications of this research highlight the need for legal reforms that address the intersection of military authority and civilian rights. The resolution of land disputes involving military institutions is often prolonged by unclear legal procedures and inconsistent application of state administrative laws. This study aims to contribute to ongoing efforts to refine and improve Indonesian law in this area, offering recommendations for legal reforms that balance the interests of both military bodies and civilian landowners. Ultimately, ensuring the integrity and fairness of the legal system requires continuous scrutiny and adaptation of laws to meet the evolving challenges posed by administrative decisions involving military institutions (Andita, 2022)(Roitman & Rukmana, 2022).

The ongoing challenge in resolving land disputes involving military decrees highlights the broader issue of legal access and fairness in administrative proceedings. Many individuals involved in such disputes lack the necessary resources to navigate the complexities of state administrative law, particularly when dealing with powerful military institutions. Ensuring that all parties, regardless of their socioeconomic status, have access to fair legal remedies is crucial for maintaining the integrity of the judicial system. This study underscores the need for a more accessible and transparent legal process, one that is designed to empower all citizens to assert their rights in disputes involving state institutions, including the military (Chandra, 2023).

The research gap in this study lies in the limited exploration of the legal consequences of military administrative decisions, particularly those related to land disputes involving military institutions and civilian entities. While previous studies have examined state administrative disputes in general, there is a lack of focused analysis on the specific intersection of military decrees and land ownership issues in Indonesian legal contexts. The case study on the TNI Commander's Decree offers a unique opportunity to explore the implications of such legal decisions on both public and private land ownership, filling a gap in understanding the complexities of military influence on state administrative decisions.

This research brings novelty by analyzing a unique case involving the TNI Commander's Decree on land ownership disputes, which has not been extensively studied in existing legal literature. The case specifically examines how military administrative decisions impact land ownership rights and their legal consequences, particularly in the context of state administrative disputes. By focusing on a concrete legal case in Surabaya and analyzing the judicial reasoning (*ratio decidendi*), this study contributes a fresh perspective on the interaction between military administrative law and civilian land rights.

The primary objective of this study is to examine the legal consequences of the TNI Commander's Decree in the context of a land dispute in Surabaya, specifically analyzing how such decisions influence land ownership and the resolution of state administrative disputes. Additionally, this research aims to uncover the judicial reasoning behind the decision in case number 124/G/2014/PTUN.SBY. The benefit of this study is to provide a comprehensive understanding of how military decrees affect civilian rights, offering valuable insights for legal practitioners, policymakers, and academics in the field of administrative and military law. The findings can also inform future legal reforms related to land disputes and military authority in Indonesia.

## **METHOD**

This type of research is normative legal research, namely research conducted by referring to the rules and legal norms contained in the applicable laws and regulations. Thus the focus of the study is positive law, in

normative legal science, jurists actively analyze norms, so that the role of the subject is very prominent. And with the basis of existing pragmatic truth, the basis is the consensus of fellow experts or known as *heersende leer* (influential teachings) (Hadjon, 2005).

In this legal research, there are several approaches. With these approaches, researchers will obtain information from various aspects regarding the issue being tried to find an answer to. The approaches used in this legal research are the statute approach, the conceptual approach, and the case study approach.

## RESULTS AND DISCUSSION

Land ownership rights according to the Basic Agrarian Law (UUPA) are, namely: "Ownership rights that have a social function like all other land rights (Article 6 UUPA) so that this means that the ownership rights to the land in addition to only providing benefits to other people or the public interest if the situation requires it. The use of these ownership rights must not disturb public order and interest" (Adrian Sutedi, 2023).

Registration of a sale or gift or exchange of land does not serve to legitimize the act, but merely to obtain evidence regarding the legitimacy of the act. The evidence is a certificate which states that the legal act exists and that the current owner is the buyer or the recipient of the gift or the recipient of the exchange (Effendi, 2008).

The emergence of legal disputes regarding land begins with a complaint from a party (person or legal entity) containing objections and demands for land rights, both regarding land status, priority and ownership, with the hope of obtaining an administrative settlement in accordance with the provisions of applicable regulations" (Murad, 1991). To make a deed of transfer of rights, the party transferring the rights and the party receiving the rights must appear before a Notary-PPAT, each party can be represented by a power of attorney based on a valid power of attorney to carry out the legal act" (Murad, 1991).

### Legal Consequences of the TNI Commander's Decree

1. Furthermore, **the legal consequences** of the TNI Commander's Decree **not legally observing the existence of the Decree of the Commander of Lantamal III Number: Skep/29/IV / 1993 dated April 8 , 1993 , About : " Replacement of the location of the TNI -AL members' plot of land which was originally in Dukuh Pakis has been replaced in Lidah Kulon Surabaya "**. This means from a legal aspect: The existence of Skep/29/IV/1993 dated April 8, 1993 is already "**Legally Valid**" with reference to the existence of Notarial Deed ST. SINDUNATHA, SH Number: 78 dated November 11, 1976 long before, so that the signing of the agreement deed occurs again release of land ownership rights (unnamed), No. 050 dated January 24, 2006 at the Notary-PPAT between the TNI-AL institution and PT. Ciputra Graha Prima Surabaya, without the presence of representatives or legitimate land owners;
2. That the TNI-AL Institution and PT. Ciputra Graha Prima Surabaya **never** explained the existence of the Decree of the Commander of Lantamal III Number: Skep/29/IV/1993 Date 0 8 April 1993, to the TNI-AL Commander, and the existence of the Decree of the TNI Commander can be reported to the Military Court ;
3. That from the State Administrative Decision above, **the legal consequences** indirectly support the results of the signing of the agreement deed. release of land ownership rights (unnamed), No. 050 dated January 24, 2006 at the Notary-PPAT between the TNI-AL institution and PT. Ciputra Graha Prima Surabaya, continued by PT. Ciputra Graha Prima Surabaya gave **Compensation Money to the TNI -AL**, amounting to Rp. 12.5 00,000,000,- (Twelve Billion Five Hundred Million Rupiah) for Land ± 8.5 Ha, in the Lidah Kulon Surabaya area, whereas the TNI-AL institution in this case **is NOT THE LEGAL OWNER OF THE LAND BUT ONLY AS A CORDINATOR**, ( **the 156 land owners never received the money at all** ), and in accordance with Three Sheets of Bank Arta Niaga Kencana Giro Bills, Ngagel Surabaya Branch Office, Account Number: 0081003270, Consecutive:
  - 1) No. Ba. 121595 Date 01-24-2006, amounting to Rp. 4.5 billion ;
  - 2) No. Ba. 326341 Date 24-02-2006, amounting to Rp. 4 billion ;
  - 3) No. Ba. 326342 Date 03-24-2006, amounting to Rp. 4 billion .

### Legal Considerations / *Ratio Decidendi* of the Judge in Case Number: 124/G/2014/PTUN.SBY (*the right to decide* )

Considering, that in connection with this matter, Article 265 paragraph (1) of Law Number: 31 of 1997 concerning Military Justice, which reads as follows: a person or civil legal entity who feels that their interests have been harmed by an Armed Forces Administrative Decision may submit a written lawsuit to the competent High Military Court containing a demand that the disputed Armed Forces Administrative Decision be declared null and void or invalid, with or without compensation or rehabilitation .

Considering, that from all the descriptions of the legal considerations above, the Panel of Judges is of the opinion that the object of the dispute is only an ordinary letter in the nature of a Notification or Information to the Minister of State Secretary regarding the TNI AL land problem in Lidah Kulon Village, Surabaya, which is also not concrete, individual and final, so that the Panel of Judges concludes that the object of the dispute is not a State Administrative Decision that can be sued in the State Administrative Court .

Considering, Law Number 5 of 1986 in conjunction with Law Number 9 of 2004 in conjunction with Law Number: 51 of 2009 concerning the second amendment to Law Number 5 of 1986 concerning State Administrative Courts and other regulations related to this case;

TO JUDGE  
IN EXCEPTION ;

- Declaring acceptance of Defendant I's exception regarding the absolute competence of the court  
IN THE SUBJECT OF THE DISPUTE ;

1. Declaring that the Plaintiffs' lawsuit is not accepted ( *Niet Ontvankelijk* ) List ) ;
2. Ordering the Plaintiffs to pay court costs amounting to Rp. 2,695,000,- (two million six hundred and ninety five)

Thus decided in the deliberation meeting of the Panel of Judges of the Surabaya State Administrative Court on Tuesday, March 3, 2015 by ANNA LEONORA TEWERNUSSA.SH.MH, as Chair of the Panel of Judges, OENOEN PRATIWI SH.MH and MERNA CINTHIA, SH.MH., each as Member Judges, the decision was read out in a hearing open to the public, on Tuesday, March 10, 2015 by the Panel of Judges mentioned above, assisted by WIWIED KURNIAWAN.,SH.MH, as Substitute Registrar of the Surabaya State Administrative Court, attended by the Attorneys for the Plaintiffs, Attorneys for Defendant I, and Attorneys for the Defendant II intervened, without the presence of Defendant II. Defendant III and his power; MEMBER JUDGES, PRESIDING JUDGE OF THE ASSEMBLY, OENOEN PRATIWI, SH , MH. ANNA LEONORA TEWERNUSSA, SH , MH. MERNA CINTHIA, SH , MH. SUBSTITUTE REGISTRATION OFFICER, WIWIED KURNIAWAN, SH , MH.

### CONCLUSION

The legal consequences related to Article 265 paragraph (1) of Law Number 31 of 1997 concerning Military Justice stipulate that a person or civil legal entity feeling their interests harmed by an Armed Forces Administrative Decision may file a lawsuit with the competent High Military Court to have the decision declared null and void, with or without compensation or rehabilitation. However, the object of the dispute in this case was merely a notification letter or information to the Minister of State Secretary concerning the TNI-AL land issue in Lidah Kulon Village, Surabaya, which was neither concrete, individual, nor final. Consequently, the Panel of Judges concluded that the object of the dispute was not a State Administrative Decision subject to a lawsuit in the State Administrative Court and declared the plaintiffs' lawsuit inadmissible (*Niet Ontvankelijk verklaard*). Furthermore, the Judge's ratio decidendi in Decision Number 124/G/2014/PTUN.Sby demonstrated a distortion of facts, as the disputed land in Dukuh Pakis, Surabaya, originally measuring 10 hectares and fully paid for by 156 TNI-AL members and civil servants in 1976, had been purchased individually at Rp. 70,000 per plot with the TNI-AL acting only as a coordinator. Due to changes in Surabaya's city plan, a decree from the Commander of Lantamal III (now Lantamal V), dated April 8, 1993 (No. Skep/29/IV/1993), relocated the land from Dukuh Pakis to Lidah Kulon. An earlier Deed of Agreement No. 78 (November 17, 1976) formalized this exchange between the Commander of TNI-AL Region IV and PT. Seruni Surabaya, authorized by the City of Surabaya for land acquisition. However, Decision No. 124/G/2014/PTUN.Sby appeared to favor the actions of the TNI-AL and PT. Ciputra Graha Prima Surabaya, which later entered into a Deed of Agreement No. 050 (January 24, 2006) based on KASAL Sprin 35/I/2006. This agreement involved the release of land control rights, rather than ownership rights, for which PT. Ciputra Graha Prima Surabaya paid Rp. 12.5 billion.

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