



Resolution of a Dispute Over Inherited Land Sold in Lubuk Basung Subdistrict, Agam Regency (Study of Judgment No. 893 K/Pdt/2025)

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Abstract: This research aims to analyze the legal position of high inheritance property (harato pusako tinggi) under Minangkabau customary law and the resolution process of disputes arising from the unilateral sale of such property without the approval of the clan, as reflected in Decision Number 893 K/Pdt/2025 in Lubuk Basung District, Agam Regency. This study employs a normative juridical research method using a case approach by examining court decisions, legislation, and relevant legal literature. The results show that harato pusako tinggi is a communal hereditary property passed down through generations and cannot be transferred or sold without the consent of all clan members. The dispute in this case arose because one party sold pusako tinggi land without the approval of the clan, thereby violating Minangkabau customary law. The dispute resolution process was carried out through litigation, beginning from the District Court up to the Supreme Court. In its decision, the court recognized the existence and application of customary law by declaring the actions of Defendant I unlawful and ordering the return of the land rights to the clan through the Mamak Kepala Waris. Furthermore, this research finds that the settlement process did not fully prioritize customary dispute resolution mechanisms based on the Minangkabau principle of “bajanjang naiak, batanggo turun.” Therefore, strengthening the role of customary institutions and ninik mamak, optimizing non-litigation dispute resolution, and harmonizing customary law with national law are necessary to prevent similar disputes in the future.

Keywords: Customary Law, Dispute, High Heritage, Resolution

1. Introduction

The urgency of recognizing customary law within Indonesia’s national legal system is highly significant because customary law (hukum adat) represents the living law that grows, develops, and is obeyed by indigenous communities across Indonesia. As a multicultural country with diverse ethnic groups and traditions, Indonesia cannot rely solely on formal state law without acknowledging the socio-cultural realities that exist within society. Recognition of customary law becomes essential to maintain legal harmony, social justice, cultural identity, and legal certainty for indigenous peoples. (Sonanda, 2023).

The urgency can first be seen from the constitutional perspective. Article 28I paragraph (3) of the 1945 Constitution explicitly states that cultural identity and the rights of traditional communities are respected in line with the development of the times and civilization. In addition, Article 18B paragraph (2) of the Constitution recognizes and respects indigenous peoples and their traditional rights as long as they remain alive and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia. These constitutional provisions indicate that customary law is not merely a social norm but also forms part of the Indonesian legal system that deserves legal protection and recognition.. (Ferolina, 2023).

Second, the recognition of customary law is important because customary law functions as a “living law” within society. Unlike statutory law, customary law emerges from community values, traditions, and social practices that have been maintained for

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generations. In Minangkabau society, for example, the matrilineal inheritance system governing *harato pusako tinggi* reflects communal values, kinship relations, and social responsibility. The inheritance system is not merely related to property ownership but also to the preservation of clan identity and social order. Therefore, ignoring customary law in resolving disputes may create injustice because state law alone may not fully accommodate the cultural dimensions of indigenous communities.

Third, recognition of customary law is urgent to preserve social harmony and prevent prolonged conflicts. In Minangkabau society, disputes over *pusako tinggi* inheritance often involve conflicts among clan members, especially between *mamak* and *ke-menakan*. Customary dispute resolution mechanisms such as deliberation through *paruik*, *kaum*, *suku*, and *nagari* levels prioritize consensus and kinship values. This mechanism reflects restorative justice principles that aim to restore social balance rather than merely determine winners and losers. If customary law is disregarded, disputes may escalate into broader social conflicts that damage communal relationships. (Sonanda, 2023).

Fourth, recognition of customary law provides legal certainty and protection for indigenous communal rights, particularly regarding customary land ownership. Many disputes concerning ancestral land arise due to unclear documentation and overlapping claims between customary law and national land law. Through recognition within the national legal system, customary rights over communal land can obtain stronger legal standing and protection against unlawful transfers or exploitation. This is especially important because ancestral land in Minangkabau society has collective and hereditary value that cannot simply be treated as individual property under civil law principles.

Fifth, the recognition of customary law demonstrates the pluralistic character of Indonesia's legal system. Indonesian law is not solely based on Western legal traditions inherited from colonialism but also incorporates religious law and customary law. Legal pluralism allows the national legal system to adapt to the social diversity of Indonesian society (Mertokusumo, 2009). Judges, therefore, have an important role in recognizing customary law in judicial decisions, including in disputes over *pusako tinggi* inheritance. Judicial recognition of customary law strengthens the position of *adat* as part of the national legal order and ensures that court decisions reflect substantive justice rooted in community values (Subekti, 2003).

In the context of the dispute over the high ancestral land of the Caniago clan in Nagari Lubuk Basung, the recognition of Minangkabau customary law becomes increasingly urgent because the dispute concerns communal property inherited across generations. Litigation processes that fail to consider customary principles may lead to decisions that contradict the values and traditions of the indigenous community. Therefore, judges' legal considerations in recognizing customary law as a living law are essential to achieving justice, legal certainty, and social harmony.

In conclusion, the recognition of customary law within Indonesia's national legal system is urgent because it protects indigenous cultural identity, strengthens legal pluralism, ensures justice for customary communities, preserves social harmony, and provides legal certainty over traditional rights. Customary law is not merely a cultural heritage but also an integral component of Indonesia's living legal system that must continue to be respected and integrated within national law enforcement and judicial practice (Putri, 2019).

2. Materials and Methods

The relevance of the case-based approach in analyzing Supreme Court Decision Number 893 K/Pdt/2025 is highly important because the approach enables researchers to examine how legal norms, customary law principles, and judicial considerations are applied concretely in resolving disputes over high ancestral inheritance (*harato pusako tinggi*). Through the case approach, the research does not merely discuss legal concepts in an abstract manner but also evaluates the practical implementation of law within judicial practice (Soerjono Soekanto, 2015).

In normative juridical research, the case approach serves as a method to understand how judges interpret and apply legal principles in a specific dispute. By analyzing Supreme Court Decision Number 893 K/Pdt/2025, the researcher can identify the legal reasoning used by the judges in determining the status of pusako tinggi inheritance, the validity of the transfer or sale of customary land, and the recognition of Minangkabau customary law as a living law within Indonesia's national legal system. This approach is relevant because disputes concerning customary inheritance often involve conflicts between customary law, civil law, and national land law, requiring judicial interpretation to harmonize these legal systems.

The case-based approach is also relevant because it provides an empirical illustration of how legal protection for indigenous rights is implemented in practice. In the dispute involving the Caniago clan's ancestral land in Nagari Lubuk Basung, the Supreme Court decision reflects how the judiciary responds to communal ownership rights rooted in Minangkabau customary traditions. Through this analysis, the research can assess whether the judges' considerations are consistent with constitutional principles, particularly Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution, which recognize and protect indigenous peoples and their traditional rights.

Furthermore, the case approach is relevant because it allows researchers to evaluate the effectiveness of customary dispute resolution mechanisms when disputes proceed to litigation. In Minangkabau customary law, disputes over pusako tinggi should ideally be resolved through deliberation at the levels of paruik, kaum, suku, and nagari before being brought before formal courts. However, when customary settlement mechanisms fail, litigation becomes necessary. Therefore, analyzing Decision Number 893 K/Pdt/2025 helps explain the relationship between customary institutions and the national judiciary in resolving inheritance disputes.

Another relevance of the case approach lies in its ability to reveal legal gaps and conflicts in the regulation of customary inheritance rights. Disputes over pusako tinggi often arise due to unclear documentation, unauthorized transfers, and differing interpretations between customary and national law. By examining the court's legal considerations, the research can identify whether existing legal regulations adequately accommodate customary communal rights or whether there are inconsistencies that create legal uncertainty for indigenous communities.

In addition, the case-based approach contributes to the development of legal doctrine and academic understanding regarding customary law within the Indonesian legal system. Court decisions, especially Supreme Court rulings, function not only as dispute resolutions but also as references for future legal interpretation. Therefore, the analysis of Decision Number 893 K/Pdt/2025 is relevant to understanding how jurisprudence strengthens the recognition of customary law as part of Indonesia's living law.

Thus, the relevance of the case-based approach in this research lies in its ability to connect legal theory with judicial practice, examine the implementation of customary law in court decisions, evaluate the protection of indigenous communal rights, and analyze the harmonization between customary law and national law in resolving disputes over high ancestral inheritance.

3. Results and Discussion

3.1 What is the Status of High Inheritance Property in Lubuk Basung District, Agam Regency, That Causes Disputes

In the community of Lubuk Basung District, Agam Regency, they generally adhere to the Minangkabau customary system, with a matrilineal lineage system traced thru the mother. This means that daughters become the primary heirs, especially for inheritance known as harta pusaka tinggi. In Minangkabau customs, it is famously said, "adaik

basandi syara', syara' basandi Kitabullah," which serves as the foundation of customary life in Minangkabau (Kurniawan, 2019).

Minangkabau customary law holds a very important position in the customary society of West Sumatra, as stated in the West Sumatra Provincial Regulation Number 6 of 2008 concerning Ulayat Land and Its Utilization, which emphasizes that the management, control, and utilization of ulayat land are carried out based on the provisions of Minangkabau customary law applicable in West Sumatra, and are recognized as a legitimate legal basis at the local level (Barat, 2008). The existence of customary law communities along with their traditional rights is also recognized in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects the unity of customary law communities along with their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia (Indonesia).

According to Minangkabau customary law, high pusako property cannot be transferred, pawned, or sold, because such property is used for the welfare of the clan or tribe. As the Minangkabau proverb says. "Sold but not eaten, pawned but not consumed. It means that the item cannot be sold." If pawned, its validity is not eternal. The item can only be pawned in certain situations and must receive the approval of the entire clan. If it is to be pawned, it must meet one of the four criteria for pawning rights, namely: (a) mayik tabujua di tengah rumah (the corpse lies in the middle of the house), (b) mambangik batang tarandam or naiak gadang batagak gala (the revival of the submerged trunk or the grand ceremony of the traditional title), (c) rumah gadang katirisan (the traditional house is leaking), 4. gadih gadang indak balaki (the grown-up girl is unmarried).

This heirloom is only a right of use, not a right of ownership. For the Minangkabau people, these assets symbolize the blood ties of a clan or tribe. Used collectively by the members of the clan or tribe, these assets serve as tools of unity and cohesion, as expressed in the traditional proverb: "harato salingka kaum, adat salingka nagari." This means that the assets of a clan or tribe must be used and utilized fairly by all its members (Putri I. S., 2021). According to Boedi Harsono, communal rights are the collective rights of an indigenous legal community over a certain area that is utilized for the common good and cannot be individually owned (Harsono, 2008). The Supreme Court once applied the distribution of pusako tinggi according to faraidh, with case number Decision Number 2874 K/Pdt/2017, which certainly contradicts customary law that requires collective ownership of the prospective inheritance. This shows the tension between customary law and Islamic/civil law, but customary institutions like KAN still play an important role in conflict resolution (Ferolina, 2023). The cause of the emergence of high pusako inheritance disputes in Minangkabau society is generally that many pusako lands do not have official documents like certificates, making it difficult to prove legally when conflicts arise. On the other hand, the clash between customary law and state law also exacerbates the dispute. What is considered valid according to customary law is not necessarily recognized by state law, and vice versa. Another factor that triggers conflict is the weakness of traditional leadership, the lack of documentation

of clan decisions, and social changes, such as the younger generation no longer understanding or valuing customs. All of this has led to the emergence of unilateral claims and disputes over ancestral land rights. To prevent disputes, there needs to be a strengthening of customary structures, recording of community decisions, and alignment between customary law and state law.

In the case examined by the author, the Plaintiff alleges that the land in question is a high ancestral heritage collectively owned by the clan and passed down thru generations. Therefore, the ownership of the land cannot be transferred thru sale without the consent of all clan members. In addition, the Plaintiff also presented witnesses who essentially explained that the land in question is a high ancestral heritage of the Caniago tribe, Dt. Mangkuto Marajo, which has been held in possession for generations.

On the other hand, the Defendant also submitted a rebuttal and evidence supporting the claim that the land in question is not a high ancestral heritage, but rather land obtained thru customary mechanisms and has been personally possessed by Defendant I. In this case, the main dispute lies in the differing views between the parties regarding the legal status of the land in question, namely whether it is a high ancestral heritage that cannot be sold, or land that can be personally possessed and transferred.

In addition, the dispute also relates to the legality of the legal act of the sale and purchase of land conducted by Defendant I to Defendant II without the approval of the community. Disputes over high ancestral property within the Minangkabau community are a relatively common phenomenon, particularly concerning ulayat land that lacks clear administrative and formal ownership boundaries. Based on the analysis of the cases studied and the practices that have developed in the community, there are several main factors that cause the prevalence of these disputes. (a) the factor of unclear status and documentation of high ancestral property. Most of the high ancestral land is not supported by formal documents such as certificates, making it difficult to prove ownership in positive law. This condition opens up the possibility of unilateral claims by certain parties. (b) the factor of differing understandings between customary law and state law. In Minangkabau customary law, high ancestral property is communal and cannot be freely traded. However, in national legal practice, the transfer of land rights is permitted as long as it meets administrative requirements. This difference often leads to conflicts when an action is considered legal under state law but contradicts customary law. (c) the factor of the weak role and function of customary institutions. Ideally, disputes are first resolved thru customary mechanisms such as community deliberations, tribal meetings, and the Nagari Customary Council (KAN). However, in practice, the roles of *ninik mamak* and customary institutions have not been optimal, either due to a lack of authority, absence of documentation of customary decisions, or a decline in public trust in these institutions. (a) economic factors. The pressure of economic needs often becomes the main reason for the illegal transfer of high ancestral property. The party that controls the land tends to sell or mortgage it without considering customary rules, in order to meet short-term financial needs. (b) the factor of the younger generation's lack of understanding of customs. Social changes and modernization have led to a decrease in understanding of traditional values, causing norms related to the management of ancestral heritage to no longer be consistently adhered to.

3.2 How to Resolve the Dispute Over High Pusako Inheritance Sold in Lubuk Basung District, Agam Regency: Study of Decision No. 893 K/Pdt/2025

The emergence of land disputes is inseparable from the interest in controlling the land. As a result of this interest, all means are employed to ensure that the contested land becomes the property of the disputing party. In such conditions, it is not impossible for disputes to arise, and if not minimized, there is a possibility that land disputes could result in someone's death and damage to other properties, leading to the emergence of hostility rather than welfare. However, in reality, land disputes are also not effectively resolved thru customary law. This happens because not all regions recognize the applicability of customary law in land disputes. Moreover, land disputes resolved thru customary law are still open to being settled thru judicial bodies, meaning that customary law is not the final arbiter in land disputes in Indonesia (Panjaitan, 2020).

Informal conflict resolution means the process of resolving conflicts by involving community leaders in the resolution of the conflict thru existing customary institutions. In resolving a land conflict in Minangkabau customs, there are procedures that must be followed due to the existence of customary institutions that have been inherited thru generations to resolve issues within the nagari. The institutions are first the clan institution led by a mamak known as the chief heir, second the tribe institution led by the tribe chief, and lastly or thirdly the Nagari Customary Council. Meanwhile, the formal conflict resolution process is a conflict resolution process thru the court (Sari G. , 2013)t. This means that according to Minangkabau customary law, if a dispute occurs within the community in the customary law jurisdiction, its resolution always goes thru non-litigation processes, as known by the proverb "bajanjang naiak, batango turun," which means it is resolved at several levels starting from the clan, ninik mamak, to the nagari customary deliberative assembly (KAN) at the Nagari level. Then, if the decision at the KAN level does not satisfy one party, they can continue the lawsuit to the court. However, not all disputes that occur in the customary law jurisdiction must be resolved thru customary rules. The resolution thru customary law depends on the type of dispute, such as customary violation disputes, ulayat land disputes, customary inheritance disputes, and sako (customary title) disputes, while criminal disputes such as general crimes fall directly under positive law, namely thru the court.

Dispute resolution can also be seen as an effort to integrate civil law and customary law. According to Supreme Court Regulation (PERMA) No. 1 of 2016, every civil case submitted to the court must first go thru mediation. This mediation is confidential, conducted by certified mediators, and is an integral part of the civil legal process. If successful, the result of the mediation is documented in a peace agreement that has the same executive power as a judge's decision. The purpose of mediation is to provide a quick, cost-effective resolution that results in an agreement satisfactory to both parties and reduces the burden on the court. Currently, court mediation still relies on judges as mediators, although there is a strong push to strengthen the role of non-judge mediators to improve efficiency and dispute resolution services (Agung, 2016).

In the structure of the Minangkabau indigenous community, Ninik mamak holds a strategic position as the customary leader responsible for regulating social life and preserving cultural values within the clan. In addition to serving as guardians of

customary norms and ancestral traditions, they also play an important role as mediators in resolving conflicts or disputes that arise within the indigenous community (smatul Karimah, 2024).

In the case being studied, before the case reached the Cassation Level, the author analyzed the First Level decision with Register No 02/Pdt.G/2024/Pn Lbb. The case originated from a land dispute located in Padang Tampak Silayang, Jorong VI Parit Panjang, Nagari Lubuk Basung, Kecamatan Lubuk Basung, Kabupaten Agam, covering an area of approximately ±3 (three) hectares. The land is claimed by the Plaintiff as the high ancestral heritage of the Caniago tribe, Payuang Dt. Mangkuto Marajo, which has been passed down thru generations from their ancestors.

The Plaintiff in this case acts as the Mamak Head of Heirs representing all members of his clan. According to the Plaintiff, the land in question has historically been the property of the clan, which cannot be sold but can only be utilized by the clan members. The problem arose when Defendant I took control of and cultivated the land, and it was later discovered that he had sold the land in question to Defendant II on July 5, 1993, without the consent and knowledge of the community. The action was considered by the Plaintiff as an unlawful act because it contradicted the customary provisions applicable to high ancestral property.

In addition, the land in question is also known to have been rented out to another party without the community's consent, and it is known that Defendant II applied for a land ownership certificate from the National Land Agency. Before the main examination of the case, the Panel of Judges had attempted to achieve reconciliation thru a mediation process as regulated by the legislation. However, based on the mediator's report, the mediation efforts did not succeed in reaching an agreement between the parties, so with the failure to achieve reconciliation, the case examination proceeded to the evidence stage in the trial.

In the process of examining the case, the parties are present in the trial either directly or thru their respective legal representatives. The trial is conducted electronically in accordance with the Supreme Court regulations on electronic case administration. Next, the Plaintiff filed a lawsuit, which was then responded to by the Defendants thru an answer containing exceptions and the main issues. In response to that answer, the Plaintiff submitted a reply, followed by a rejoinder from the Defendants. After that, the case proceeded to the evidence stage by presenting written evidence and witnesses from each party.

The core of the dispute in this case lies in the legal actions taken by Defendant I regarding the land in question, which is claimed to be a high heirloom. Defendant I is known to have sold the land to Defendant II without the consent and knowledge of the rightful clan.

According to the Plaintiff, the action constitutes an unlawful act because it contradicts the Minangkabau customary law, which prohibits the transfer of rights over high ancestral property without the consent of all clan members. Defendant I's actions can also be categorized as an unlawful act as regulated in Article 1365 of the Civil Code, as it violates the communal rights of the clan over high ancestral property and causes harm to other clan members.

In addition, Defendant I also took unilateral control and utilization of the land and rented it out to others without the community's consent. These actions further strengthen the suspicion of unlawful conduct in the management of the land in question. On the other hand, the Defendant argues that the sale and purchase are valid because the land in question is not a high ancestral heritage, but rather land that has been personally possessed based on customary mechanisms (Agustina, 2003).

The resolution of the dispute in this case was ultimately carried out thru the general court system after attempts at an out-of-court settlement were unsuccessful. In the trial process, the panel of judges first sought peace thru mediation, but the effort did not reach an agreement between the parties. In examining and deciding cases, the court not only considers positive legal aspects but also takes into account the existence of customary law as part of the living law within the community, particularly concerning the status of high heirlooms in Minangkabau society.

However, the facts in this case indicate that the dispute resolution mechanism thru customary institutions, such as community deliberations or the Nagari Customary Council (KAN), was not optimally pursued before the dispute was brought to court. This has led to formal judicial proceedings becoming the primary choice for resolving conflicts.

Thru its ruling, the court seeks to provide legal certainty regarding the status of the land and assess the validity of the legal actions taken by the parties, particularly concerning the disputed land sale. The decision was then upheld to the level of cassation, which indicates that the dispute resolution was carried out in stages within the judicial system. Thus, the resolution of the dispute in this case reflects a shift from customary-based resolution to resolution thru formal judicial institutions, although the substance of the dispute remains closely related to customary law.

In the case taken by the author, it was resolved thru litigation (court) as occurred in Nagari Lubuk Basung, Lubuk Basung District, Agam Regency, with case number No 893 K/Pdt/2025. The object of the case in this instance is the dispute over the high inheritance property owned by the Caniago Clan, Payuang Panji Datuak Mangkuto Marajo, which is a piece of land estimated to be approximately 3 hectares located in Padang Tampaik Silayang, Jorong VI Parit Panjang, Nagari Lubuk Basung, Lubuk Basung District, Agam Regency.

Before the dispute reached the Cassation level, the litigating parties had already undergone first-level proceedings at the Lubuk Basung District Court under Case Number No. 2/Pdt.G/2024/PN Lbb, and appellate proceedings at the Padang High Court under Case Number No. 135/Pdt/2024/PT Pdg. The object of dispute in this case involved *harta pusaka tinggi* (ancestral communal inheritance property) that had been sold without the permission of the parties entitled under customary law. The conflict arose when Defendant I sold land categorized as *harta pusaka tinggi* to Defendant II in 1993 without the consent or knowledge of the Plaintiff and other members of the Caniago clan. The settlement of this dispute involved not only Minangkabau customary law but also civil law governing legal relations between individuals concerning property rights, contracts, and sale and purchase agreements.

The Plaintiff filed a civil lawsuit on January 12, 2024, seeking the annulment of the sale and purchase transaction conducted by Defendant I and Defendant II in 1993. The Plaintiff argued that the transaction was contrary to the principles of civil law, particularly regarding unlawful acts and property rights. Considering the potential transfer of land rights that had not yet been legally resolved, the Plaintiff requested the Panel of Judges to impose a conservatory attachment (*sita jaminan*) on the disputed land in order to prevent any transfer of rights without authorization. This request was in line with the provisions of civil law that allow temporary protection of rights to prevent further losses.

Based on the decision of the Lubuk Basung District Court Number 02/Pdt.G/2024/PN Lbb, after conducting hearings by examining the defendants' exceptions, hearing witness testimonies from both parties, and reviewing supporting documents, the Panel of Judges decided as follows: To partially grant the Plaintiff's claim; To legally declare the Plaintiff as the *Mamak Kepala Waris* (Head of Inheritance Custodian) within his clan, acting on behalf of all clan members descended from Anduang Lumuik of the Caniago Payuang clan under Dt. Mangkuto Marajo in Nagari Lubuk Basung, Lubuk Basung District, Agam Regency, based on the clan agreement letter regarding the appointment of the *Mamak Kepala Waris*, signed in the village on July 15, 2023; To declare that the Plaintiff and Defendant I are included within the genealogical lineage (*Ranji*) of Anduang Lumuik of the Caniago Payuang clan under Dt. Mangkuto Marajo; To declare that the act of Defendant I in selling the disputed land object to Defendant II on July 15, 1993, for the amount of Rp. 32,500,000 (thirty-two million five hundred thousand rupiah) constituted an unlawful act; To order Defendant I to hand over the disputed object to the descendants' clan of Anduang Lumuik of the Caniago Payuang clan under Dt. Mangkuto Marajo through the Plaintiff as the *Mamak Kepala Waris*; To order the Defendants jointly and severally to pay court costs amounting to Rp. 1,855,000.00 (one million eight hundred fifty-five thousand rupiah); To reject the remainder and excess of the Plaintiff's claims.

If we analyze the elements causing disputes and observe the weaknesses in customary resolution, as well as the efforts to strengthen and protect the law, in the context of dispute resolution, customary mechanisms actually have advantages because they prioritize deliberation and maintain kinship relations. However, in practice, this mechanism is often considered weaker compared to resolution thru the court. This is due to several factors, including the lack of executory power of customary decisions, the absence of legal certainty, and the informal documentation of decision outcomes.

Therefore, harmonization between customary law and national law is necessary so that the resolution of high inheritance disputes not only provides legal certainty but also maintains the customary values and kinship relations of the Minangkabau community.

Regarding the transfer of high ancestral property, in Minangkabau customary law, it is fundamentally prohibited to be sold. If a violation occurs, social or customary sanctions can be imposed, such as reprimands, ostracism, or the obligation to return the property to the clan. However, in practice, these sanctions often do not work effectively due to weak supervision and enforcement of customs.

In civil law, a bona fide buyer should, in principle, be protected. However, in the context of high ancestral property, that protection becomes limited because the object being sold is essentially not valid for transfer. Therefore, the judge in this case prioritized the protection of the rights of the community as collective owners over the interests of the buyer.

This shows that in high ancestral property disputes, the principle of caution is very necessary for third parties before conducting transactions, including ensuring the status of the land and obtaining approval from the authorities according to customary law.

Thus, it can be concluded that the prevalence of high inheritance disputes is caused by a combination of legal, social, and economic factors. Dispute resolution thru customary law still plays an important role, but it needs to be strengthened to compete with formal judicial mechanisms. On the other hand, legal protection for the parties, including buyers, must still take into account the special characteristics of high ancestral property as a communal right in Minangkabau customary law.

From the case studied by the author, according to the author, after the Lubuk Basung District Court ruled that Defendant I had sold the land in question to Defendant II, the panel of judges ordered Defendant I to return the land in question to the descendants of Anduang Lumuik from the Caniago Payuang Dt. Mangkuto Marajo clan thru the Plaintiff as the Mamak Head of Heirs. Subsequently, at the appellate level, the decision was upheld by the Padang High Court. Then, at the cassation level, the Supreme Court of the Republic of Indonesia rejected the cassation request filed by Defendant I, Defendant II, and the Co-Defendant thru their legal counsel.

In Minangkabau customary law, harta pusako tinggi is a hereditary asset that cannot be freely traded, as its ownership is communal within a clan. The control and management of it are under the authority of the Mamak Kepala Waris as the leader of the clan, who is responsible for preserving the continuity of the property for future generations. Therefore, the action of Defendant I selling the object of the case without the community's consent constitutes a violation of the applicable customary norms.

Nevertheless, the panel of judges in this case has considered the values of customary law as part of the living law within society, as recognized in the Indonesian national legal system. The judge's decision to return the disputed object to the clan thru the Mamak Kepala Waris shows recognition of the existence of communal rights in Minangkabau customary law.

The concept of living law was proposed by Eugen Ehrlich, who stated that the law that lives within society is often more effective than written law, because it is born and developed from the social values adhered to by the society itself.

Thus, it can be concluded that although dispute resolution has been carried out thru formal judicial channels and has considered the principles of customary law, ideally, the resolution of high ancestral property disputes should still prioritize customary mechanisms as the initial step before pursuing litigation.

4. Conclusions

This research contributes significantly to the development of customary law studies, particularly in relation to the position of Minangkabau customary law within Indonesia's

national legal system and the resolution of disputes concerning harato pusako tinggi. The contribution of this research can be viewed from theoretical, practical, and juridical perspectives.

First, this research contributes theoretically by enriching the academic study of customary inheritance law in Indonesia. The research provides a deeper understanding of the legal status of harato pusako tinggi as communal ancestral property that cannot be individually controlled or transferred freely. By emphasizing that pusako tinggi belongs collectively to the clan and is managed through the authority of the Mamak Kepala Waris, this research strengthens the understanding that customary inheritance law in Minangkabau society is based on collective rights, kinship, and the continuity of generations. This contribution is important because customary law studies often focus only on general inheritance concepts without specifically examining the communal and matrilineal characteristics of Minangkabau customary law.

Second, this research contributes to the development of legal pluralism studies in Indonesia. The findings demonstrate that customary law continues to function as a living law within society and remains relevant in resolving disputes involving indigenous communities. Through the analysis of Supreme Court Decision Number 893 K/Pdt/2025, this research shows how judges integrate customary values into judicial considerations. This strengthens the academic discourse that Indonesia's legal system is pluralistic in nature, consisting not only of statutory law but also of customary law and other legal systems that coexist within society.

Third, this research contributes practically by providing insight into the mechanisms for resolving customary inheritance disputes. The research explains that Minangkabau customary law prioritizes non-litigation settlement through deliberation at the levels of kaum, suku, and the Kerapatan Adat Nagari (KAN). This finding reinforces the importance of restorative and consensus-based dispute resolution mechanisms in maintaining social harmony and kinship values. At the same time, the research highlights that litigation should function as the last resort when customary mechanisms fail. This contribution is valuable for indigenous communities, customary leaders, and legal practitioners in understanding effective dispute resolution strategies.

Fourth, this research contributes juridically by examining the judicial recognition of customary law within national law enforcement. The court's decision in recognizing the disputed object as harato pusako tinggi and declaring the unauthorized sale as an unlawful act demonstrates that customary law possesses legal force within Indonesia's judicial system. This research therefore contributes to strengthening the legal protection of indigenous communal rights, particularly concerning customary land ownership and inheritance. It also provides a reference for judges and policymakers in resolving future disputes involving customary communities.

Fifth, this research contributes to the identification of challenges faced in the implementation of customary law. The study reveals that disputes over pusako tinggi frequently arise due to weak customary institutions, inadequate documentation of customary land ownership, and tensions between customary law and national law. By identifying these issues, the research offers recommendations for strengthening customary institutions, improving land administration systems, and harmonizing customary law with national law. These recommendations are important for preventing similar disputes and ensuring greater legal certainty for indigenous peoples.

Finally, this research contributes to the preservation and revitalization of customary values within contemporary society. Amid social change and modernization, adherence to customary norms has gradually weakened in some communities. By highlighting the importance of maintaining customary mechanisms and communal values in inheritance management, this research supports efforts to preserve Minangkabau cultural identity and customary traditions as part of Indonesia's national heritage.

Therefore, the overall contribution of this research lies in strengthening the academic understanding of Minangkabau customary inheritance law, demonstrating the

practical relevance of customary dispute resolution, reinforcing the recognition of customary law within the national legal system, and providing recommendations for the protection and preservation of indigenous communal rights in Indonesia.

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