

## Appendix V

### The Case of Daulat vs. Mat Kokoh

This case first came to the attention of the courts in 1965 and after a decision in the court in Sungai Penuh in 1967 an appeal was lodged with the High Court in Padang. A subsequent appeal was also lodged against the decision of that court and the case was taken up before the Supreme Court which finally reached a decision upholding the verdicts of the two lower courts in 1973. The various stages through which the process went gives an indication of the tenacity with which people in Pondok Tinggi pursue litigation.

As far as I could tell from a careful perusal of the court records and an examination of the evidence, the history of the dispute, which concerned the rightful ownership of some *sawah*, was as follows. The land which lay within the village boundaries originally belonged to a certain Siti Rukun. Some time in the first decade of the century it was pawned by her to Suka Rami for D.fl.1.200. In 1919 Badu Ketib, Suka Rami's grandson to whom the land had fallen, pawned the pledge of the land - with the knowledge of Siti Rukun's son, Badu Lukung - to Haji Mat Run for D.fl. 1.150. The latter in his turn, in 1924, without the knowledge of the original owners, pawned it further to Sjahbidin and Isah, but then two years later he redeemed the pledge, bringing Haji Mat Delir into partnership with himself to do so. The latter then came into possession of the property which had passed to his son Mat Kokoh. In 1952 Badu Lukung had tried through the offices of the village head to regain his family property and seems to have redeemed it from Badu Ketib.

By this time, though, Badu Ketib no longer had control of the property and Mat Kokoh was unwilling to release it. Another attempt was made to regain the property when Daulat, Badu Lukung's son, went to the Agraria Office of Land Registration and Land Reform in 1964 and explained the position. Although decisions reached by this office did not have the force of law, problems of land reform and the abolition of repressive land tenure arrangements were very much in the air at the time, and when Daulat received a decision in his favour he might have been expected to have won the day, but Mat Kokoh refused to give up possession and Daulat eventually went to law in 1965. Unfortunately, the G30S coup occurred at the time and proceedings

were postponed for two years as a consequence of the political turmoil in the country. Finally, after a series of appeals as mentioned above, Daulat was given a verdict in his favour by the Supreme Court which also invoked a recently enacted land reform law to absolve Daulat of making any further redemption payments.

Daulat's plea was, in substance, the presentation of the facts described above. The land belonged to his family, there was never any question of it having been sold. It had been pawned and been in pawn for a number of years during which time it had gone through many hands, but now, as was their right no matter how long the land had been in pawn, the family wished to redeem it. Mat Kokoh's defence of his refusal to give up the land was a strong denial of Daulat's claim and a flat rejection of his account. Aided by a *pokrol* (untrained local legal expert) lawyer he maintained that the land in fact belonged to his own family and had done so for generations. As family *pusaka* it had fallen to him through inheritance.

Because there were not written documents showing evidence of any pawning transactions to prove his case, Daulat had recourse to the usual expedient in these matters: he brought forward a number of witnesses who testified that they were closely acquainted with the matter and from personal knowledge of seeing who had worked the land knew that it had originally belonged to Siti Rukun. Mat Kokoh vigorously denied their evidence and for his part brought forward two documents to substantiate his claim. The first was a scrap of paper in Arabic script allegedly written in 1918 stating that a certain Badu Wakaf had received D.fl. 1.3 from Mat Kokoh's mother to collect stones near the bathing well where the disputed *sawah* was located. Although the courts had not remarked on this, the note was palpably not genuine, since it had been written in biro. The other document was a will, allegedly made out by Mat Kokoh's *mamak* and dated the Fourth of June 1927, in which the *mamak*, Taloeki, gave a number of items of property to his sister Bendo. This testament which is undoubtedly a forgery is a curious item and worth quoting in full, because even though it is not genuine, it gives an impression of the kind of evidence which would have been thought convincing.

Pondok Tinggi 4-6-1927

That I whose signature follows at the bottom of this letter Sjech Taloeki bin Iman Sangkok Ajam on the date given above have left the following items of property to a women called Bendo and her descendants.

- 1) 1 house with its contents
- 2) 1 section (of a rice-granary) with its contents.
- 3) 1 plot of scrub *belukar* land located on Bukit Terbakar.

4) 1 *junjang* of *sawah* located at Pantjoeran Keboe. The boundaries of this *sawah* are: to the south the Kesik Dike; to the north the hillside; to the far side the *sawah* of Liko; to the near side the *sawah* of Haji Siam. This *sawah* I have received from my father named Imam Sangkok Ajam.

Apart from the *sawah* the other possessions were received from my mother (and I mention this) so that there should be no confusion among our descendants in the future. The reason why I am handing over this property is because I have received from Bendo money to the sum of fl. 105 in cash and one bull worth £ 1. 64. Thus the total amount I have received is £ 1. 169. I have made this testament in sound mind.

Daulat immediately claimed that this letter was a forgery and gave as a strong reason for believing this, the fact that one of Mat Kokoh's witnesses, Mat Yakin, who was a son of Taloeke had never heard of the name Imam Sangkok Ayam. Mat Yakin's testimony, that the land belonged to his father, was anyway suspect. Furthermore, he said that his father had died in 1922 thus anticipating the testament he had drawn up by five years.

The courts, quite correctly in my opinion, all supported Daulat's claim but in issuing their verdicts they touched upon one or two interesting legal points relating to recent laws. The High Court in Padang said that there had been no evidence that Daulat had actually paid the redemption money, and although Mat Kokoh had come into possession of the land unknown to Daulat, he did have some right to compensation. On the other hand, taking into consideration Paragraph 7 of the Implementing Instruction Number 56 1960 relating to the Agrarian Law which stated that land which had been in pawn for over seven years should be returned to its original owner without redemption having to be paid, then the land should automatically revert to Daulat who need not pay the redemption money. This was an interesting comment for the court to make at that time, since it was not clear in legal circles whether that controversial law should be enforced through the courts. In the context of the times it was thought to be a highly subversive law put through by Communists, and in the communist phobia after the 1965 coup many thought it should be shelved. Furthermore, there were socio-cultural reasons why that law was not suitable for enforcement in the Minangkabau region (*vide* von Benda-Beckmann 1979: 420 n. 75). And, in fact, it was by indirectly appealing to the inappropriateness of the implementing of that law in Kerinci that Mat Kokoh persuaded the Supreme Court to review the High Court's decision. Among the reasons for the appeal was the statement that "Regulation number 56 of 1960 did not apply in Kerinci since Kerinci came under the law of *adat*". The Supreme Court, however, rejected the appeal.

There are several issues which emerge from this case. The most striking is the actual legal procedure involved in each party pleading its case. Pawning seems to have been very common and to have been known from an early date preceding the Dutch occupation and at a very rudimentary stage of the monetization of the economy. In this instance the nature of the initial transaction was never disputed. It was pawning, not a sale of land. What is fascinating is the way in which the pawning pledge can be transferred from hand to hand in a relatively flexible way, and, again, all this seems to have happened without any written agreement being made by the parties concerned. At least, this represents the situation before about 1930. Presumably it was the growing awareness of the difficulty of cases involving witnesses where the lack of documents led to ready perversions of justice which made people in the following years anxious to obtain written evidence of transactions. The practice of relying strongly on witnesses seems to be traditional to *adat* procedures, but in the law courts where the antecedents of witnesses and socio-domestic context of dispute are largely immaterial, then new strategies have to be found to conduct traditional disputes in a changed legal environment. This problem of adaption seems to cause trouble, not only for litigants unable to appreciate the methods of the new system but also for the courts which find it difficult to accommodate their procedure to cases where rules of precedent and assumptions of honesty of testimony are not easily applicable.

One final point: one principle which was never in doubt throughout the proceedings was that family *sawah* could be inherited by sons as well as daughters.

## Glossary

Only words which occur more than once in the text are listed in the glossary. Most of the kinship terms are also omitted and the reader is referred to tables 3 and 4 in the text for their range of reference. Initials PT after a word indicate this is a dialect word used in Pondok Tinggi. M indicates a Minangkabau expression. Other words are Indonesian but the glosses refer to the meaning attached to the words in Kerinci.

- adat                                      The body of conventions, prescriptions and traditional norms which make up the way of life of the community. The frequently used gloss, "customary law", only refers to that part of *adat* dealing with rules and in using the more specific term *adatrecht* to refer to customary law. An *adatrechtskring* is a geographical area in which a local body of *adatrecht* appears to apply.
- ajun arah                                The system of the allotting of a plot of uncultivated or common land lying within the village boundaries by the village elders to a villager who makes a formal request for it.
- anak bako (M)                         The children of one's father's sister, i.e. patrilineal cross-cousins; more extensively it refers to all the members of the father's matrilineal descent group. The Minangkabau expression *pulang kabako* usually means a marriage between a man and his FZD.
- anak betino (PT)                      This literally means "female child" but in Pondok Tinggi it has two related meanings: i) All the female members of a descent group; ii) All the spouses of women of the group. This second category of people who become members of the descent group through marriage are considered to be entitled to the protection of the men of the group. *anak jantan* (q.v.). The term is also used in a more limited context to mean a man who has married into a family and is thus similar to the

	Minangkabau term <i>semendo</i> .
anak jantan (PT)	Literally, this means a male child. It is used to refer to all those men who are members of the descent group by birth according to matrilineal principles.
anak pisang (M)	The children of one's mother's brother, i.e. matrilineal cross-cousins; more extensively it refers to all the children of the men of ego's matrilineal descent group. It is the reciprocal of <i>anak bako</i> (q.v.).
andil	A large work group. This may be organised on the basis of exchange labour, or, which is more common today, may simply comprise a group of agricultural labourers who sell their labour on a daily basis. The group may be single-sexed or mixed.
bagi dua	"Halves". A share-cropping arrangement. The share-cropper bears all the costs of cultivation and at the harvest the field is divided into two, and the share-cropper and landlord is each responsible for harvesting his own half.
bo	A smaller version of <i>andil</i> (q.v.) consisting of usually not more than a dozen people.
camat	The head of a <i>kecamatan</i> , a territorial unit of government administration below the level of a <i>kabupaten</i> . A <i>camat</i> is a career civil-servant who has had some training in an academy of government administration.
Depati	An honorific title, from the Javanese Adipati. The title passes from MB to ZS. It seems that at some time in Pondok Tinggi it was decided that each of the 11 <i>perut</i> (q.v.) in the village should be headed by a <i>Depati</i> . There has, however, subsequently been a proliferation of <i>Depati</i> .
dukun	A traditional healer usually practising on a part-time basis.
duo piak (PT)	Bilateral cross-cousins, among whom there exists a joking relationship. For further information see the text.
dusun	The word in general use in Kerinci to refer to a village. There are currently c.162 <i>dusun</i> in Kerinci

- and their sizes range from a population of only 100 or so up to 9000.
- gadai** A pawn or pledge. Pawning land was the most common form of transaction involving land before the 1920s when, it appears, outright sales became more frequent.
- gelar** An honorific title. In Kerinci the dialect form of the word, *glo*, is also used to mean simply a name, when, for example, enquiring what a person is called.
- giliran** A turn or rotating share in property. *Giliran* are often divided among siblings to avoid the fragmentation of property and also, it is said, to perpetuate and consolidate kinship links through common ownership. *Giliran* may be further subdivided among the heirs of those original holders of *giliran*.
- gilir-ganti** The term used to refer to the system of rotating shares, *giliran* (q.v.).
- harta berat** "Heavy" possessions. Immovable property. Usually taken to be rice-fields, houses and, in former times, granaries.
- harta pembawaan** Possessions brought into a marriage by spouses which remain their individual property. The husband's property is referred to as *harta bujangan* or *pembujangan*. The wife's property is *harta gadis* or *harta dapatan*.
- harta pencarian** Possessions acquired by a man and wife together during the course of their marriage.
- hibah** The making of a free gift. This is an Islamic concept and in Kerinci usually refers to the donation by a person in old age to a close relative who would not necessarily inherit property on the death of that person.
- kadhi** The Islamic religious official responsible for conducting marriage ceremonies.
- kaleng** Literally a "tin", this is a volumetric measure of 40 litres and is used for husked (*beras*) and unhusked rice (*padi*). This works out to circa 10 kilos of dry

- padi* and 16 kilos of *beras*.
- kampung Village. This is the general Malay and Indonesian word and is used particularly frequently in expressions meaning to go home, when one is living away from one's home.
- kaum tua The older generation. Always contrasted with *kaum muda*, the younger generation. The terms are used primarily with reference to the dispute about Islamic reformism, the *kaum muda* group supporting reformism along "fundamentalist" lines, the *kaum tua* opposing them.
- kaum muda The younger generation, in contrast to *kaum tua* (q.v.).
- jenjang A plot or strip of land. Formerly it appears to have referred to a plot of standard dimensions, perhaps a standard allocation when the land was originally apportioned. Now it simply means a plot of indeterminate size. A long *jenjang* can be up to 300 yards in length and as much as 14 yards wide. A small *jenjang* may be a third that length and half the width, being usually the result of a division after the fragmentation of a holding.
- kayao A respectful term of address towards those whom one considers senior to oneself. It seems to derive from *orang kaya* which is traditionally translated "rich man" since it has this denotation in Indonesian. Non-Kerinci people often joke about how rich ("*kaya*") everyone is in Kerinci. This form of address, sometimes a title, is also common in societies in Kalimantan (Borneo).
- kenduri (kaluhai PT) A feast, in particular a ritual feast held for some ceremonial occasion.
- kincir A mill, usually a water-mill in Kerinci. *Lesung* is a common synonym.
- koto Originally a small fortified settlement. All the present villages in Kerinci are said to derive from seven *koto*. Sungai Penuh and Pondok Tinggi, for example, are said to derive from Koto Pandan which is located some way up the hillside from



	Pondok Tinggi and is the site of the grave of the alleged founder of the settlement.
kuak agih (PT)	"Rip and divide", the formal division of property among heirs. This may occur only years after the <i>de facto</i> division when, for example, one heir needs to show a title to some property so that he may dispose of it.
ladang	"Dry" (non-irrigated) fields, located on the hill-sides and used for the cultivation of vegetables and export crops.
larik (PT)	A row of houses in the centre of the village. Each of these rows is named. There are ten of them in Pondok Tinggi.
lurah (=luhoh PT)	Matrilineal descent group. There are four of these in Pondok Tinggi: Rio Sangarao, Rio Mandaro, Rio Pati, Rio Temenggung. They are corporate descent groups which originally held specific territory and which still possess heirlooms ( <i>pusaka</i> ) belonging to the group. Members cannot however trace their common descent from a named ancestor.
maghrib	The dusk prayer, falling in Kerinci about 6.30 pm.
musim paceklik	The difficult season, referring to the period just before the harvest of the new rice when stocks of the previous year's harvest are almost exhausted. This Indonesian expression seems to have entered Kerinci vocabulary only within the last forty years.
mas kawin	The "wedding money". The sum paid by the bridegroom to the bride in fulfilment of one of the conditions of the Islamic marriage contract. The sum or the items requested by the bride are usually only of nominal monetary value, e.g. a copy of the Koran.
naik joi (PT)	To go on the pilgrimage to Mecca (=Indonesian <i>naik haji</i> ).
minta arah	To ask formally for the permission of the village elders to hold a feast or undertake something which requires their permission, e.g. the erection of a house.

mendapo	i) Traditionally, a <i>mendapo</i> was a loose federation of villages which had usually come together for the purposes of defence. ii) Today, a <i>mendapo</i> is the administrative head of a <i>kemendapooan</i> (the word has been back-formed through error). The <i>kemendapooan</i> is an administrative territorial unit below the level of <i>kecamatan</i> .
nikah gantung	Suspended marriage. A couple are formally married but agree not to cohabit and consummate their marriage for a fixed time.
nenek moyang nenek-mamak	Remote ancestors. The elders of the community, also sometimes simply the elders of a <i>lurah</i> or the senior men in a <i>perut</i> or <i>pintu</i> . The elected representative of the <i>lurah</i> , i.e. the Rio, is also commonly referred to as the <i>nenek-mamak</i> of the <i>lurah</i> .
perut	The segment of the descent group below the level of <i>lurah</i> . There are 11 recognised and named <i>perut</i> in Pondok Tinggi. Some of these have names which denote their size, e.g. <i>perut panjang</i> , the long <i>perut</i> , some have names referring to the location of their original residence as well as their size e.g. <i>perat pandak mudik</i> , the short <i>perut</i> living uphill. The literal meaning is stomach or womb.
pusaka	Objects which have been handed down over generations from some time in the remote past and have acquired a quasi-magical status because their possession is part of the definition of a group or a family. These objects may be plots of land or houses or such things as daggers ( <i>kris</i> ) or spears ( <i>tombak</i> ) or objects on which things are written, e.g. inscribed horns. An honorific title is also considered <i>pusaka</i> which is handed down over generations.
pusaka rendah	"Low" <i>pusaka</i> . This is defined by being the opposite of <i>pusaka tinggi</i> (q.v.), that is, it is property which has only recently come into a family's possession.

pusaka tinggi	"High" <i>pusaka</i> . Property which has been in a family's possession for countless generations. It is alleged that rules governing the inheritance of this property differ from those relating to more recently acquired property, <i>pusaka rendah</i> .
pintu	The smallest segment of the descent group which has any sort of recognisable corporate identity. There is some doubt about whether <i>pintu</i> are actually named. Most <i>pintu</i> appear these days to be represented by a <i>Depati</i> . The word originally means door and seems in the first instance to refer to those who lived within one of the separate apartments in the long-houses.
pupou (PT) rantau	A contribution or membership fee. The area outside one's homeland to which one goes periodically and where some reside temporarily for the purposes of trade, education etc. <i>Merantau</i> , the verb, means to leave one's home for a time to work and acquire experience.
Rio	i) An honorific title below that of <i>Depati</i> . It also passes from MB to ZS. ii) The title given to the elected <i>lurah</i> (q.v.) representative who is also known as the <i>nenek-mamak</i> of the <i>lurah</i> . This position seems to have been introduced by the Dutch. To distinguish this title from the honorific title above, this Rio is often referred to as the Rio <i>Pemerintah</i> , the Rio of Government. iii) A way of referring to the four <i>lurah</i> . Thus a person may be asked what Rio he belongs to.
sasi (PT)	An arrangement relating to the rent of rice-fields for the period of an agricultural year. It usually requires the pre-payment in cash of a quarter of the value of the estimated harvest.
sawah	"Wet" rice-fields. Some of these are simply rain-fed, others are irrigated by a traditional system of drainage, and some lie within the catchment area of recently built modern irrigation systems. <i>Sawah dalam</i> , deep <i>sawah</i> , are rice-fields which have only recently been created out of former swamp land. There are numerous problems in relation to the

	cultivation of <i>sawah dalam</i> and the yield from these fields is considerably lower than that from other fields.
<b>sikat</b>	Literally a comb, but also used to refer to a 'comb' of bananas. Hence it acquires the more abstract, metaphorical meaning of a unit of kin within a larger genealogical grouping. It is the unit of uterine kin below a <i>tando</i> (2) (q.v.) but it is not a formally recognised politico-jural unit.
<b>sirih</b>	Betel. In Kerinci this is prepared by wrapping an areca nut in leaves and smearing this with a paste of limestone. It is usually women who chew <i>sirih</i> but it is not uncommon for men to do so.
<b>surat jual-beli talé (PT)</b>	A bill of sale. A song. There are traditional songs sung when working in the fields or when courting or when preparing to go on the haj. All these are known under the generic term, <i>talé</i> .
<b>tandan (PT)(1) tandan (2)</b>	To go on a courting visit to a girl's house. The whole bunch (of bananas) growing from a tree and consisting of several <i>sikat</i> (q.v.) or combs. It is used informally to refer to uterine family groups below the level of <i>pintu</i> .
<b>tandan (PT)</b>	The engagement token. These are exchanged by an engaged couple.
<b>teganai (PT)</b>	A family's male representative who may be called upon to settle differences within a family as well as to represent it in any disputes with other families. He is usually the wife's MB or the wife's brother. This institution of representation is also found in the same form in Minangkabau society.
<b>tembilang meh</b>	Spade of gold. Used with reference to property which has been acquired through purchase.
<b>tembilang besi</b>	Spade of iron. Used with reference to the creation of property by converting virgin land to arable fields.
<b>tuto (PT)</b>	Form of address by term of kinship. For example, " <i>Aku tuto mamak ngusinyo</i> " means "I address him as <i>mamak</i> (because he stands in that kinship

relationship towards me)". The word probably derives from the Malay *tutur*: to speak.

## Bibliography

### Abbreviations

BKI	Bijdragen tot de Taal -, en Volkenkunde, uitgegeven door het Koninklijk Instituut voor de Taal-, Land en Volkenkunde.
CSSH	Comparative Studies in Society and History
TBB	Tijdschrift voor het Binnenlands Bestuur.
TITLVK	Tijdschrift voor Indische Taal-, Land- en Volkenkunde, uitgegeven door het Koninklijk Bataviaas Genootschap van Kunsten en Wetenschappen.
TNAG	Tijdschrift van het Koninklijk Nederlands Aardrijkskundig Genootschap.
TNI	Tijdschrift voor Nederlands Indie.
VBG	Verhandelingen van het Koninklijk Bataviaas Genootschap van Kunsten en Wetenschappen.

### Notes

1. One or two books are mentioned in the bibliography which have not been referred to in the text. I have included them because they had some influence on me when I was writing up the thesis.
2. I have used the convention of using the second name as the reference to works by Indonesian writers. This tends to be the convention in Indonesia at present, although, of course, there is usually no intention of suggesting the second name is a family name or surname as it is for Europeans.

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