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Legal Certainty of Final and Binding Judgments in *Derden Verzet*: Analysis of Case No. 135/Pdt.Bth/2023/PN.Sim

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Abstract: The finality of court judgments is essential to legal certainty, yet the enforcement of a final and binding judgment may affect the rights of third parties who were not involved in the principal proceedings. Previous studies have mainly examined third-party opposition (*derden verzet*) as a legal remedy for protecting third-party rights and addressing enforcement disputes, while limited attention has been given to the tension between judgment finality and subsequent third-party opposition that restricts enforcement. This study aims to analyze the legal certainty of final and binding judgments from the perspective of third-party opposition, particularly in Case Number 135/Pdt.Bth/2023/PN.Sim, and to examine its implications for judgment enforcement and the principle of simple, speedy, and low-cost justice. The study employs normative legal research using statutory, case, and conceptual approaches. The analysis focuses on a series of court decisions concerning the principal dispute and subsequent third-party opposition proceedings. The findings show that third-party opposition does not invalidate the principal judgment but limits its executorial effect over property proven to belong to a bona fide third party. The study's novelty lies in proposing the concept of the relativity of legal certainty, whereby finality remains valid within the principal dispute while its enforcement may be limited to protect legally established third-party rights.

Keywords: Legal Certainty, Final Judgment, *Derden Verzet*, Execution of Judgment, Third Party Opposition.

INTRODUCTION

The enforcement of a court judgment constitutes the culmination of civil judicial proceedings because it transforms the adjudication of rights into concrete legal consequences. A judgment that has acquired final and binding legal force (*inkracht van gewijsde*) generally possesses binding, evidentiary, and executorial force and is therefore regarded as an important manifestation of legal certainty (Harahap, 2017; Mertokusumo, 2009). In the Indonesian legal system, legal certainty is closely associated with the objectives of law to establish order, predictability, and protection of legally recognized rights. Consequently, a final and binding judgment is expected to terminate a dispute and provide legal protection to the successful party. Nevertheless, finality does not necessarily exclude the possibility that the enforcement of a judgment may affect the rights of persons who were not parties to the original proceedings.

Indonesian civil procedural law provides a legal mechanism in the form of third-party opposition (*derden verzet*) to protect persons outside the principal proceedings whose rights are allegedly affected by attachment or enforcement of a court judgment. *Derden verzet* constitutes a legal remedy through which a third party challenges the attachment or enforcement of property claimed to be legally owned by that party. In judicial practice, the opposing third party must establish a legally valid right over the property subject to enforcement in order to be recognized as the proper opposing party (Harahap, 2017; Maramis, 2017; Sitorus, 2018). Thus, *derden verzet* creates a procedural intersection between the principle of finality of judgments and the protection of third-party rights. Its function is not necessarily to annul the principal judgment, but to prevent the enforcement of that judgment from prejudicing rights that were not examined in the original proceedings (Baiquni et al., 2022; Wewo, 2023).

The legal problem becomes more complex when *derden verzet* is submitted against a judgment that has already acquired final and binding legal force through the cassation level. In such circumstances, two legally protected interests may appear to coexist: the legal certainty attached to the final judgment in the principal proceedings and the protection of a third party who was never involved in those proceedings. Previous studies have discussed *derden verzet* primarily from the perspective of its function as a legal remedy against attachment or enforcement and as an instrument for protecting third-party rights (Lubis, 2022; Maramis, 2017; Pratitis, 2019; Rianti, 2017). Other studies have examined the implementation and obstacles of civil judgment enforcement, including situations in which the object of enforcement is controlled or claimed by a third party (Hartini et al., 2017; Harvianto & Hartanto, 2019; Oedoyo et al., 2022). However, these studies have not specifically addressed the conceptual tension between the finality of an *inkracht* judgment and the emergence of a subsequent *derden verzet* judgment that limits the executorial effect of the original judgment. This constitutes the research gap of the present study.

The uniqueness or state of the art of this research lies in examining legal certainty not merely as an absolute consequence of a final and binding judgment, but as a legal certainty whose scope may become relative when the enforcement of that judgment encounters legally protected third-party rights. This perspective is developed through a case analysis of Decision Number 135/Pdt.Bth/2023/PN.Sim in conjunction with Decision Number 682/PDT/2024/PT MDN and the 2025 cassation decision of the Supreme Court of the Republic of Indonesia. The case is particularly significant because the principal proceedings had previously resulted in Decision Number 45/Pdt.G/2016/PN.Sim in conjunction with Decision Number 159/PDT/2017/PT MDN and Decision Number 75 K/PDT/2018, which had acquired final legal force. During the enforcement stage, however, a third party challenged the enforcement on the ground that part of the property constituted the third party's legally acquired rights based on HGB Number 82 of 2017 and a valid underlying transaction. The third-party opposition was granted by the Simalungun District Court, affirmed by the Medan High Court, and subsequently maintained through cassation proceedings in 2025. This factual configuration provides an important basis for examining whether *inkracht* should be understood as the absolute end of all legal controversy or only as the finality of the dispute among the parties examined in the principal proceedings.

The case also raises an important question concerning the relationship between legal certainty and substantive justice. On the one hand, the final judgment in the principal proceedings provides certainty and executorial protection to the successful party. On the other hand, the judgment in the *derden verzet* proceedings provides legal protection to a third party whose rights were not previously examined. The coexistence of these two final judgments creates a legal tension rather than a simple contradiction because the *derden verzet* judgment does not necessarily extinguish the validity of the principal judgment but may restrict the scope of its enforcement with respect to particular property. This situation is relevant to the

understanding of legal certainty as a value that must be balanced with justice and the protection of legally recognized rights (Alexy, 2015; Radbruch, 1950). Furthermore, the prolonged procedural trajectory, from the principal proceedings initiated in 2016, cassation in 2018, *derden verzet* in 2023, appellate proceedings in 2024, and cassation proceedings in 2025, raises concerns regarding the implementation of the principle of simple, speedy, and low-cost justice (Hartini et al., 2017; Oedoyo et al., 2022).

Accordingly, this research aims to analyze the relativity of legal certainty attached to a final and binding judgment from the perspective of *derden verzet*. More specifically, the study addresses three questions: first, how should the legal certainty of a final and binding judgment be understood when viewed from the perspective of *derden verzet*? second, how are the legal implications of granting *derden verzet* for the enforcement of a judgment that has acquired final and binding legal force? and third, how does *derden verzet* affect the realization of the principle of simple, speedy, and low-cost justice? By addressing these questions, the study seeks to demonstrate that the finality of a judgment should not automatically be interpreted as an absolute barrier to the protection of third-party rights. Instead, the findings are expected to contribute to the development of a more nuanced understanding of legal certainty in Indonesian civil procedural law, particularly by proposing the concept of the relativity of legal certainty in final and binding judgments.

METHODS

This study employs normative legal research that focuses on examining legal norms, principles, and judicial decisions relevant to the legal certainty of final and binding judgments in third-party opposition (*derden verzet*) proceedings. The object of the research is the legal relationship between the finality of judgments and the protection of third-party rights, particularly as reflected in Decision Number 135/Pdt.Bth/2023/PN.Sim and its subsequent appellate and cassation decisions. Normative legal research is appropriate for analyzing legal rules and judicial reasoning through primary and secondary legal materials (Harahap, 2017; Mertokusumo, 2009).

The research applies a statutory approach, case approach, and conceptual approach. The statutory approach is used to examine the legal provisions governing civil procedure, judgment enforcement, and third-party opposition. The case approach analyzes the judicial reasoning and legal consequences contained in the relevant decisions, while the conceptual approach is used to examine the concepts of legal certainty, finality of judgments, justice, and *derden verzet* (Maramis, 2017; Wewo, 2023). The primary legal materials consist of Decision Number 45/Pdt.G/2016/PN.Sim, Decision Number 159/PDT/2017/PT MDN, Decision Number 75 K/PDT/2018, Decision Number 135/Pdt.Bth/2023/PN.Sim, Decision Number 682/PDT/2024/PT MDN, and the 2025 cassation decision of the Supreme Court of the Republic of Indonesia.

The collected legal materials are analyzed using descriptive-qualitative legal analysis by identifying, interpreting, and comparing the relevant legal considerations and judicial reasoning. The analysis is directed toward determining the extent to which *derden verzet* affects the executorial force of a final and binding judgment and its implications for legal certainty and the principle of simple, speedy, and low-cost justice (Hartini et al., 2017; Oedoyo et al., 2022).

RESULTS AND DISCUSSION

Finality and Legal Certainty of the Final and Binding Judgment

According to the theory of legal certainty, a court judgment that has acquired final and binding legal force must provide finality to a dispute. This finality is manifested through the principle of *res judicata pro veritate habetur*, namely that a judicial decision must be regarded as correct unless there is a legal basis determining otherwise. In Case Number

45/Pdt.G/2016/PN.Sim, legal certainty was manifested through the recognition of the ownership rights of the heirs of Ompu Saur Sinaga, the annulment of documents creating rights over the disputed property, the order to vacate and surrender the disputed property, and the executorial force following the rejection of the cassation appeal. Theoretically, the dispute should therefore have been concluded (Alexy, 2015; Mertokusumo, 2009).

Legal Position of *Derden Verzet*

Third-party opposition constitutes a legal protection mechanism available to persons outside the original proceedings who claim to be adversely affected by attachment or enforcement. *Derden verzet* is recognized in Indonesian civil procedural practice and may be filed by a party capable of proving a legal right over property that has been attached or is subject to enforcement. Its primary purpose is not to annul the principal judgment, but to protect third-party rights that have never been examined by the court (Karinda et al., 2020; Maramis, 2017; Wewo, 2023).

Analysis of Decision Number 135/Pdt.Bth/2023/PN.Sim

The Supreme Court's cassation decision established that the opposing party was able to prove its ownership rights, qualified as a bona fide purchaser, possessed HGB Number 82 of 2017, and had a legal basis in the form of a release and transfer of rights dated 17 May 2016. Hotel Parapat View II was located on the relevant property. Based on these facts, the court recognized the opposing party as the proper third-party opponent (Juang & Islam, 2025; Pratitis, 2019; Rianti, 2017). Legally, the court did not annul Decision Number 45/Pdt.G/2016/PN.Sim. Instead, it excluded specific property from the scope of attachment and enforcement.

The Relativity of Legal Certainty in the *Inkracht* Judgment

The findings demonstrate that legal certainty in civil proceedings is not absolute. Decision Number 45/Pdt.G/2016/PN.Sim remains valid, while Decision Number 135/Pdt.Bth/2023/PN.Sim is also legally valid. The two decisions do not annul one another. Rather, the principal judgment remains applicable, while the scope of its enforcement is limited by the decision in the *derden verzet* proceedings.

Gustav Radbruch's Theory of Justice

According to Gustav Radbruch, law must balance legal certainty, justice, and utility. In this case, Decision Number 45/Pdt.G/2016/PN.Sim reflects legal certainty, whereas Decision Number 135/Pdt.Bth/2023/PN.Sim reflects substantive justice. The court chose to protect the third party who was able to establish a valid legal right (Alexy, 2008; Radbruch, 1950).

Lawrence M. Friedman's Legal System Theory

According to Lawrence M. Friedman, legal effectiveness is influenced by legal structure, legal substance, and legal culture. In this case, the court provides the institutional structure for the *derden verzet* mechanism, while HIR, RBg, and judicial practice recognize the protection of third-party rights (Friedman, 1975). Legal culture is also reflected in the use of legal opposition as an instrument for protecting land rights.

Simple, Speedy, and Low-Cost Justice

The principal proceedings commenced in 2016, while the cassation proceedings were completed in 2018. Enforcement subsequently continued, followed by the filing of *derden verzet* in 2023, the appellate decision in 2024, and the cassation decision in 2025. Thus, the dispute extended for approximately nine years. This situation indicates that, empirically, the principle of simple, speedy, and low-cost justice has not been fully realized, although the law

requires judicial proceedings to be conducted in a simple, speedy, and low-cost manner (Hartini et al., 2017; Oedoyo et al., 2022).

DISCUSSION

The findings answer the first research question concerning the position of legal certainty in a final and binding judgment from the perspective of *derden verzet*. A judgment that has acquired *inkracht van gewijsde* remains legally binding and does not lose its validity merely because a third party subsequently submits *derden verzet*. However, the case demonstrates that the finality of the principal judgment is not necessarily absolute with respect to property rights belonging to persons who were not parties to the original proceedings. This confirms that the principle of legal certainty must be understood together with the protection of third-party rights (Alexy, 2015; Hakim, 2017; Mertokusumo, 2009).

The second research question concerns the implications of granting *derden verzet* for the enforcement of a final and binding judgment. The findings show that the granting of *derden verzet* does not eliminate the principal judgment. Instead, its legal consequence is the limitation of the executorial scope of the principal judgment concerning specific property that has been proven to constitute the lawful right of a bona fide third party. Therefore, *derden verzet* operates as a corrective mechanism at the enforcement stage by preventing the execution of a judgment from prejudicing rights that were not previously examined by the court (Harvianto & Hartanto, 2019; Maramis, 2017; Wewo, 2023).

The third research question concerns the effect of *derden verzet* on the principle of simple, speedy, and low-cost justice. The chronology of the dispute indicates that the principal proceedings, enforcement process, *derden verzet*, appellate proceedings, and subsequent cassation proceedings extended over approximately nine years. Although *derden verzet* provides an important mechanism for protecting third-party rights, its application may also prolong the resolution of disputes and create additional stages of litigation. This creates a tension between substantive justice for third parties and procedural efficiency, particularly in the context of judgment enforcement (Hartini et al., 2017; Oedoyo et al., 2022).

From the perspective of Gustav Radbruch's theory, the two judgments illustrate the need to balance legal certainty and justice. The principal judgment represents the demand for finality and certainty, whereas the *derden verzet* judgment represents substantive justice by protecting a third party capable of proving a valid legal right (Oedoyo et al., 2022). Meanwhile, Friedman's legal system theory demonstrates that the effectiveness of this protection depends not only on the availability of the procedural mechanism but also on the legal structure, applicable legal substance, and legal culture surrounding the enforcement of judgments (Oedoyo et al., 2022).

The novelty of this study lies in formulating the concept of the “relativity of legal certainty” in final and binding civil judgments. The study demonstrates that *inkracht van gewijsde* should not be understood as the absolute termination of every subsequent legal issue, but as finality primarily within the scope of the dispute and parties examined in the principal proceedings. Where a bona fide third party subsequently establishes an independent legal right over specific property affected by enforcement, the final judgment may remain valid while its executorial scope is limited. This finding provides a more nuanced understanding of the relationship between finality, legal certainty, substantive justice, and third-party protection in Indonesian civil procedural law.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The granting of third-party opposition (*derden verzet*) in Decision Number 135/Pdt.Bth/2023/PN.Sim does not eliminate the existence or legal force of Decision Number 45/Pdt.G/2016/PN.Sim in conjunction with Decision Number 159/PDT/2017/PT MDN and

Decision Number 75 K/PDT/2018, which have acquired final and binding legal force. The *derden verzet* decision only limits the exercise of the executorial force of the principal judgment with respect to property proven to constitute the right of a bona fide third party based on HGB Number 82 of 2017 and a valid legal basis. Thus, legal certainty within Indonesian civil procedural law is not absolute but relative to the existence of third-party rights that were never examined in the principal proceedings. This finding establishes the concept of the Relativity of Legal Certainty in Final and Binding Judgments. At the same time, *derden verzet* functions as a corrective legal mechanism that safeguards substantive justice, although it may prolong dispute resolution and consequently affect the effectiveness of the principle of simple, speedy, and low-cost justice. In the context of land disputes, the findings contribute to the development of civil procedural law by emphasizing the need to reconcile the finality of judgments with the protection of legally established third-party rights. To prevent future conflicts during judgment enforcement, courts in land-related proceedings need to conduct more comprehensive identification of physical possession, certificate status, and the potential existence of third-party rights from the examination of the principal proceedings.

Limitations

This study has several limitations. First, the analysis is limited to the specific judicial decisions examined, particularly Decision Number 135/Pdt.Bth/2023/PN.Sim and its related judgments, so the findings cannot be generalized to all *derden verzet* cases or all civil and land disputes in Indonesia. Second, the study focuses primarily on normative legal analysis and does not incorporate empirical data concerning the experiences of litigants, judges, bailiffs, or other actors involved in judgment enforcement. Third, the analysis is based on the legal developments reflected in the examined decisions and therefore does not fully capture possible changes in judicial practice or the long-term development of *derden verzet*. The findings should consequently be interpreted within the specific legal and factual scope of this study.

Recommendations

Future studies should broaden the scope of judicial decisions examined by incorporating comparative cases involving *derden verzet* from different Indonesian courts and types of property disputes. Empirical research involving judges, litigants, legal practitioners, and enforcement officers may also provide a more comprehensive understanding of the practical implementation of third-party opposition and its effect on judgment enforcement. Further research should also examine mechanisms for identifying potential third-party rights at an earlier stage of civil proceedings in order to reduce conflicts during execution and strengthen the implementation of simple, speedy, and low-cost justice.

Author Contributions

The author made significant contributions to this study, including research conceptualization, development of the theoretical and legal framework, identification and analysis of primary legal materials, interpretation of judicial decisions, preparation of the manuscript, scholarly revision, and finalization of the article. The author has read and approved the final version of the manuscript for publication.

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