

Legal Implications of Land Ownership Rights of Dago Elos Residents Following the Decision No. 601/Pid.B/2024/PN Bdg

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Abstract

This study examines the legal implications of land ownership rights in Dago Elos following Bandung District Court Decision No. 601/Pid.B/2024/PN Bdg, which annulled the inheritance claim by the Muller Family over land formerly titled as Eigendom Verponding Nos. 3740, 3741, and 3742. Previously, the Supreme Court Decision No. 109 PK/Pdt/2022 had ruled in favor of the Muller Family and ordered Dago Elos residents to vacate the land they had occupied for decades. However, in 2024, new legal evidence (novum) emerged proving the Muller Family committed inheritance fraud, as confirmed by a criminal verdict. This research adopts a normative juridical method with a case and statutory approach. The findings reveal that falsified heirship documents invalidate the Muller Family's legal standing over the disputed land. Under Supreme Court Circular No. 10 of 2009, the affected residents have the right to submit a second judicial review to restore their land rights. This study highlights the importance of substantive justice in agrarian disputes and the necessity of legal protection for communities with long-standing physical control over their land.

Keywords: Judicial Review, Land Dispute, Dago Elos, Forged Inheritance Documents, Legal Certainty

INTRODUCTION

Urban land ownership and control in Java presents a complex challenge, deeply intertwined with political, cultural, economic, and social dynamics. The rapid transformation of cities has intensified demand for residential, governmental, and commercial land use, often leading to disputes among stakeholders with competing interests ((Setiawati, 2011)). A notable source of legal conflict is land that retains Western-style titles, particularly Eigendom Verponding, which was intended to be converted into ownership rights (Hak Milik) under the Basic Agrarian Law of 1960. Eigendom titles confer strong individual control over land use, but if not converted within the 20-year period set by law, the land legally reverts to the state (Asnanda Y.; Abas, M.; Sanjaya, S., 2024).

Recent studies emphasize that disputes involving unconverted colonial land titles highlight systemic legal uncertainty in Indonesian agrarian administration, especially in urban areas with high economic value (Hernoko G.; Roro, F.S.; Bambang, S.A.S., 2016; Zakaria, 2007). Furthermore, international legal scholars such as Bell and Parchomovsky (2007) argue that land tenure security is not only essential for individual rights but also for sustainable urban development. In Indonesia, legal conflicts regarding Eigendom Verponding lands remain prevalent, particularly when competing claims arise between long-term residents and heirs invoking old colonial titles without legal conversion (Ginting W., 2020).

This is the backdrop of the Dago Elos land dispute in Bandung. In 2016, the Muller Family claimed inheritance over Eigendom Verponding Titles No. 3740, 3741, and 3742, despite the land having long been occupied by local residents and containing public facilities such as a post office and public transit terminal (Khoirunnisa B.S.; Nikmah, N.L., 2024). Initial court decisions favored the Muller Family and invalidated residents' land certificates, prompting strong public resistance and legal mobilization. However, new legal evidence emerged in 2024, revealing inheritance fraud that shifted the legal trajectory of the case. This article explores the implications of that finding for the land rights of Dago Elos residents.

RESEARCH METHODS

This study adopts a normative juridical (doctrinal) research method, which focuses on examining legal norms, principles, and doctrines through a systematic and conceptual approach. According to Soekanto Sri (2014), normative legal research involves the study of law as a set of written norms encompassing legislation, court decisions, and legal theory. Suteki; Taufani (2018) further assert that this method is ideal for assessing the coherence and consistency of legal rules in resolving specific juridical issues. The research employs both the statutory approach and case approach, particularly in analyzing the contradiction between Bandung District Court Decision No. 601/Pid.B/2024/PN Bdg and the prior civil rulings, including Supreme Court Decision No. 109 PK/Pdt/2022. This approach is supported by Marzuki (2005), who emphasizes the role of legal interpretation in resolving conflicts between criminal and civil adjudications.

The data used in this study are secondary in nature, consisting of three categories of legal materials: primary legal materials, including statutory regulations and court decisions; secondary legal materials, such as legal textbooks, scholarly journal articles, and expert analyses; and tertiary legal materials, including legal dictionaries and encyclopedias. All relevant legal materials were selected using purposive sampling techniques, with emphasis on cases and norms related to land conversion, inheritance law, procedural justice, and judicial review mechanisms. Data collection was conducted through library research, using statutory and case approaches. The analysis employs a qualitative-descriptive technique with normative-evaluative interpretation. This method allows the researcher to assess legal texts in a systematic and critical manner, particularly in evaluating the effect of criminal convictions on earlier civil rulings. The structure of the research method aligns with doctrinal frameworks described by legal methodologists such as Soekanto Sri (2014), as well as Suteki; Taufani (2018), who emphasize normative interpretation and theoretical coherence in legal reasoning.

RESULT AND DISCUSSION

Prof. Dr. Nandang Sambas, S.H., M.H. asserts that forgery entails the act of rendering something that originally existed into nonexistence, creating a document that deviates from the original, altering the authenticity of a document, or making it appear as genuine when in fact it is not. Under Article 263 of the Indonesian Penal Code (KUHP), forgery involves both the creation of a false document and its use for deceptive purposes. Article 263 of the Indonesian Penal Code (KUHP):

Paragraph (1): Any person who makes a false document or falsifies a document that may give rise to a right, an obligation, or the discharge of a debt, or that is intended to serve as evidence of a matter, with the intent to use the document or to cause another person to use it as though its contents were true and unaltered, shall be punished.

Paragraph (2): The same punishment shall apply to any person who knowingly uses such false or falsified document as though it were genuine, if the use of said document may cause harm.

Reference to the elements of Article 266 of the Indonesian Penal Code (KUHP):

Paragraph (1): Any person who instructs the insertion of false information into an authentic deed concerning a matter whose truth must be stated in such deed, with the intent to use or to cause another person to use the deed as though the information were consistent with the truth, shall be punished.

Paragraph (2): The same punishment shall apply to any person who knowingly uses such deed as referred to in the first paragraph, the contents of which are untrue or falsified, as though they were true and unaltered.

In the Dago Elos case, Herry Hermawan and Doddy Rustandi deliberately inserted false information into their birth certificates by adding the surname “Muller” without going through a judicial process. This act constitutes a violation of Article 266 of the Indonesian Penal Code, which prohibits the insertion of false information into an authentic deed intended to serve as evidence of legal truth (Lamintang and Lamintang, 2014). Based on Decision No. 601/Pid.B/2024/PN Bdg, the court legally established that Herry Hermawan and Doddy Rustandi were proven guilty of committing a criminal offense by “using an authentic deed containing false information as if its contents were true.” The legal consequence of this ruling is the nullification of the inheritance claims made by Herry Hermawan Muller and Doddy Rustandi Muller as lawful heirs of George Hendrik Muller (Fakhiryah, 2020).

Legal Aspects of Heirship Document Forgery

Heirship document forgery refers to the act of creating or altering documents related to a person’s inheritance status with the intent of unlawfully obtaining inheritance rights (Muaja and Rompas, 2021). Such documents typically include certificates of heirship issued by authorized entities such as notaries or courts. The forgery of inheritance documents can harm legitimate heirs and lead to legal disputes. In the case of Dago Elos, the injured parties are the residents who have occupied the disputed land for decades and, in many cases, hold valid land ownership certificates.

The legal aspects of heirship document forgery, specifically involving authentic deeds (akta otentik), are regulated under the Indonesian Penal Code (KUHP), particularly Article 266 paragraph (2) in conjunction with Article 55 paragraph (1). The provision stipulates that “Any person who intentionally uses such deed as though its content were consistent with the truth, and where such use may cause harm,” shall be subject to criminal sanctions (Fakhiryah, 2020). Depending on the severity of the violation and the harm caused, the forgery of an inheritance document may result in a criminal sentence of up to six years of imprisonment (Muaja and Rompas, 2021).

In addition to criminal liability, parties harmed by such forgery may initiate civil proceedings to claim compensation for both material and immaterial losses resulting from the unlawful act. According to Article 266(2) of the Penal Code, the essential elements of the offense are as follows:

1. The element of "Any person"

This term refers to any individual who, under the law, qualifies as a legal subject and may be held criminally liable for their actions. In the present case, Herry Hermawan alias Heri Hermawan Muller bin Edi Eduard Muller, and Doddy Rustandi alias Doddy Rustandi Muller bin Edi Eduard Muller, have been identified and legally confirmed as the accused. Throughout the proceedings, both defendants were found to be mentally and physically competent to stand trial and respond to the charges, thereby confirming there was no error in persona in the case.

2. The element of “Intentionally using the deed as though its content were true”

The term "intentionally" (opzet) is not explicitly defined in the Penal Code; however, its interpretation in judicial practice, particularly in Hoge Raad rulings and the *Memorie van Toelichting*, equates "opzet" with "willens en wetens"—that is, "willingly and knowingly." The term *willens* refers to the intent to commit a particular act, while *wetens* implies awareness that such an act may produce certain consequences as intended. In criminal law, three forms or categories of intent (opzet) are generally recognized:

a. Intent as purpose (opzet als doel)

According to Prof. Satochid Kartanegara, this refers to an act committed with clear intent where the act itself is the objective of the perpetrator—thus, the act is both desired and aimed for (*gewild en beoogd*).

b. Intent as certainty or necessity

This form of intent arises when the perpetrator commits an act with knowledge that the consequence—constituting an essential element of the offense—is inevitable or necessarily follows from the act.

c. Intent as probability (*dolus eventualis*)

This type of intent occurs when a person commits an act intending to achieve a particular objective, while also being aware that the act may lead to additional, prohibited outcomes. In such cases, the individual accepts the risk that these other consequences may occur, even if they are not directly intended.

According to R. Soesilo (Soesilo, 1991), “intentionally using a forged document” means that the person who uses the document must be fully aware that the document in question is false. If the user is unaware of the forgery, they cannot be held criminally liable. In other words, before establishing the element of “using a forged or falsified document as if it were genuine,” it must first be proven that the document is indeed forged or falsified. P.A.F. Lamintang further distinguish between a forged document (*surat palsu*) and an altered document (*surat yang dipalsukan*) (Lamintang and C.D, 1984) . A forged document refers to a document that initially did not exist at all, and is then created with content that contradicts the truth. In contrast, an altered document refers to one that initially existed but has been modified in such a way that its contents are no longer consistent with the truth.

In this case, the forged or falsified documents that were proven to have been used are as follows (“ Decision No 601/Pid.B/2024/PN Bdg,” 2024):

- i) Birth Certificate No. 28.450/1988, dated 30 July 1988, in the name of Heri Hermawan Muller;
- ii) Supplemented Birth Certificate No. 28.451/TAMBAHAN/1988, dated 8 January 2014, in the name of Dodi Rustandi Muller.

It was established that both of the aforementioned birth certificates had been altered by the addition of the surname “Muller” to each individual’s name. It was proven that this surname did not appear on the original versions of their birth certificates. Specifically, the excerpt of Birth Certificate No. 28.451/Tambahan/1988 in the name of Dodi Rustandi Muller, dated Soreang, 8 January 2014, was processed by witness Ir. Mohamad Ma’sum (Amas) without any formal ruling (*Penetapan*) from the District Court authorizing the name change. Furthermore, it was found that the content of this certificate differed from the original Birth Registration Book maintained by the Civil Registry Office (*Disdukcapil*) of Bandung Regency. The registry clearly recorded and registered the certificate under the name “Doddy Rustandi” with no reference to “Muller.” Therefore, the content of the modified birth certificate is inconsistent with the actual record and does not reflect the truth.

- iii) Acte van Geboorte No. 28/1939 in the name of Edi Eduard Muller.

It was revealed that Acte van Geboorte No. 28/1939 dated Bandoeng, 19 December 1949, under the name Muller Eduard—or alternatively recorded as Edi Eduard Muller—does not exist in the official birth registry. According to archival records at the Civil Registry Office (*Disdukcapil*) of Bandung Regency for the year 1932, specifically in the registry book Acte van Geboorte LE 01-779 of 1939, there is no registration under the name Edi Eduard Muller. Instead, the registry book lists Acte van Geboorte No. 28/1939 under the name Kerger, Anna Marie, with the father recorded as Alexander Willem Paul and the mother as Caroline Anna Maria. Therefore, the document attributed to Edi Eduard Muller is not registered in the official civil records and is thus unverifiable.

- iv) Eigendom Verponding Nos. 3740, 3741, and 3742 in the name of George Hendrik Muller

It has been established that Eigendom Verponding Nos. 3740, 3741, and 3742, claimed to be under the name of George Hendrik Muller, constitute forged or falsified documents. Based on witness testimony during trial, the disputed land area was said to comprise four verponding numbers: 3740, 3741, 3742, and 6467. However, the witness stated that verponding No. 6467

was never physically presented as evidence during the proceedings. Meanwhile, verponding Nos. 3740, 3741, and 3742—submitted as legal evidence—were all in the name of George Hendrik Muller.

Nonetheless, according to an official statement issued by the National Land Agency (BPN) of Bandung City, the three Eigendom Verponding certificates in question are in fact registered under the name of N.V. Cement Tegel Fabriek en Materialen Handel Simongan, a legal entity. The Muller family claimed that ownership of Verponding Nos. 3740, 3741, and 3742 was transferred from the original owner—N.V. Cement Tegel Fabriek en Materialen Handel Simongan—to George Hendrik Muller through a deed executed before Notary Eliza Hendrik Corpetier Alting on 7 August 1899.

However, evidence presented in court showed that the alleged transfer deed is forged. The reason being, the company N.V. Simongan was only established in 1916, whereas the purported deed of transfer dated back to 1899. This factual inconsistency clearly invalidates the claim of transfer and confirms the falsification of the ownership documents submitted as evidence.

3. The Element of “If the Use of the Deed May Cause Harm”

Based on the facts revealed during the trial, it was established that Heri Hermawan used Birth Certificate No. 28.450/1988 dated 30 July 1988 under the name Heri Hermawan Muller—created in 2013—as evidence in Civil Case No. 454/PDT.G/2016/PN.Bdg. Similarly, Dodi Rustandi used Supplementary Birth Certificate No. 28.2451/1988 dated 8 January 2014 under the name Dodi Rustandi Muller, which was prepared by witness Ir. Mohamad Ma’sum (Amas), as evidence in the same civil case. According to the results of forensic document analysis (Laboratoris Kriminalistik Report No. 2608/DCF/2024 dated 28 June 2024), both birth certificates—No. 28.450/1988 and No. 28.2451/1988—were declared non-identical.

As a result, the use of these forged documents in court proceedings has caused legal harm to the defendants, particularly the residents of Dago Elos who hold valid land rights certificates such as Sertifikat Hak Milik (SHM – Certificate of Ownership) and Sertifikat Hak Guna Bangunan (SHGB – Certificate of Building Use Rights). The civil court’s reliance on these falsified documents as evidence has threatened the legal standing and tenure security of the affected community.

4. The Element of “Committing, Ordering, or Participating in the Act”

There was cooperation between Heri Hermawan and Dodi Rustandi in the use of the forged birth certificates. Therefore, the element of “committing, ordering, or participating in the commission of the act” has been fulfilled through the actions of both defendants. As all the elements stipulated under Article 266 paragraph (2) in conjunction with Article 55 paragraph (1) subparagraph 1 of the Indonesian Penal Code (KUHP) have been satisfied, the court declared that Herry Hermawan, also known as Heri Hermawan Muller bin Edi Eduard Muller, and Doddy Rustandi, also known as Doddy Rustandi Muller bin Edi Eduard Muller, were legally and convincingly proven guilty of the criminal offense of “using an authentic deed containing false information as if its contents were true.” Accordingly, the court sentenced both Herry Hermawan and Doddy Rustandi to imprisonment for a term of three (3) years and six (6) months each.

Legal Implications on the Land Ownership Rights of Dago Elos Residents Following Decision No. 601/Pid.B/2024/PN Bdg

The Supreme Court of the Republic of Indonesia, in Decision No. 109 PK/Pdt/2022, ruled in favor of the Muller Family and affirmed that Heri Hermawan Muller and Dodi Rustandi Muller were the lawful heirs of George Hendrik Muller. As a result, they were declared to have a stronger legal claim over the disputed land identified as Eigendom Verponding Nos. 3740, 3741, and 3742. The Court also concluded that the residents of Dago Elos had committed an unlawful act (*perbuatan melawan hukum*) and ordered them to vacate the land and demolish any structures standing on it. Furthermore, the Supreme Court held that all land certificates and related

documents issued by the Bandung City Land Office—along with any derivative documents—were null and void and held no legal effect (Putri and Susilowati, 2023).

In contrast, in 2024, through District Court Decision No. 601/Pid.B/2024/PN Bdg, Herry Hermawan, also known as Heri Hermawan Muller bin Edi Eduard Muller, and Doddy Rustandi, also known as Doddy Rustandi Muller bin Edi Eduard Muller, were found guilty of violating Article 266 paragraph (2) in conjunction with Article 55 paragraph (1) subparagraph 1 of the Indonesian Penal Code. The court declared that both defendants were legally and convincingly proven to have committed the criminal offense of “using an authentic deed containing false information as if its content were true.” The authentic deeds in question were Birth Certificate No. 28.450/1988 dated 30 July 1988, in the name of Heri Hermawan Muller, and Supplementary Birth Certificate No. 28.451/1988 dated 8 January 2014, in the name of Dodi Rustandi Muller. Additionally, the court found that the same individuals had also falsified documents in the form of Eigendom Verponding certificates No. 3740, 3741, and 3742, which were falsely attributed to George Hendrik Muller (Putusan No. 601/Pid.B/2024/PN Bdg 2024).

According to Prof. Dr. Agus Yudha Hernoko, S.H., M.H., the ownership status of the disputed land cannot automatically revert to the Dago Elos residents, even for those who currently hold *Sertifikat Hak Milik* (Certificates of Ownership). Legal restoration must follow the procedures provided by law. Pursuant to the Basic Provisions on Judicial Power in conjunction with Article 23 of Law No. 4 of 2004 concerning Judicial Power, it is stipulated that under certain conditions provided by law, a court decision that has obtained permanent legal force may be subject to *Judicial Review* by the Supreme Court in both civil and criminal cases, as submitted by interested parties. Provisions regarding judicial review are also regulated under Articles 66 to 77 of Law No. 14 of 1985 concerning the Supreme Court (hereinafter referred to as Law No. 14 of 1985) (Hernoko et al., 2016).

The exercise of judicial authority by the Supreme Court of the Republic of Indonesia constitutes an independent execution of judicial power. This implies that the relationship among the District Courts, High Courts, and the Supreme Court is functional in nature—related to legal remedies and oversight—rather than hierarchical. The Supreme Court may not intervene in or influence the adjudication process conducted by the High Court, nor may the High Court intervene in cases under examination by the District Court. This principle affirms the independence of each judicial institution in handling cases within its jurisdiction.

A petition for Judicial Review may be submitted either in writing or orally by the parties themselves to the Supreme Court through the Chief Judge of the District Court that rendered the first-instance decision. Article 66 of Law No. 14 of 1985 provides that the filing of a petition for judicial review does not suspend or halt the execution of a court decision, and the petition may be withdrawn as long as no decision has been rendered. Furthermore, judicial review may only be submitted once.

Article 67 of Law No. 14 of 1985, as amended by Law No. 5 of 2004 concerning Amendments to Law No. 14 of 1985 on the Supreme Court (hereinafter referred to as Law No. 5 of 2004) and further amended by Law No. 3 of 2009 (hereinafter referred to as Law No. 3 of 2009), sets forth the grounds for filing a judicial review petition as follows:

- a. If the judgment is based on deceit or fraud committed by the opposing party that is discovered only after the decision has been issued, or is based on evidence that is subsequently declared to be false by a criminal court;
- b. If, after the decision has been rendered, decisive written evidence is discovered that could not have been presented during the original trial;
- c. If the court granted more than was requested, or granted something that was not requested at all (*ultra petita*);
- d. If a part of the claim was not decided upon without explanation or legal reasoning;

- e. If there exists a contradiction between decisions issued by the same court or court of the same level concerning the same parties, the same subject matter, and based on the same legal grounds;
- f. If the decision contains a judicial error or a clear mistake

A petition for judicial review must be submitted personally by the party to the case, their legal heir, or a duly authorized legal representative, in accordance with Article 68 paragraph (1) of Law No. 14 of 1985. The timeframe for filing a judicial review petition based on any of the grounds previously stated is limited to 180 (one hundred and eighty) days, as regulated in Article 69 of Law No. 14 of 1985. The specific calculation of the 180-day period is as follows:

- a. For the ground referred to in letter (a), the time limit begins from the moment the fraud or deception is discovered, or from the date the criminal court decision declaring the evidence to be false becomes final and binding, and has been officially notified to the parties.
- b. For the ground referred to in letter (b), the time limit begins from the date the newly discovered decisive evidence was found. The date of discovery must be declared under oath and certified by a competent authority.
- c. For the grounds referred to in letters (c), (d), and (f), the time limit begins from the date the court decision became final and binding and was officially notified to the parties to the case.
- d. For the ground referred to in letter (e), the time limit begins from the date the latest conflicting decision became final and binding and was officially notified to the parties involved.

Although a court decision may have obtained permanent legal force (in kracht van gewijsde), the parties are still afforded the opportunity to file an extraordinary legal remedy in the form of a judicial review, as provided under the applicable legal provisions mentioned above. These provisions reflect the principle that no absolute truth exists in this world, except the truth determined by God—not the truth declared by a judge. A final and binding court decision represents a form of relative legal truth, which may be challenged and annulled if new facts (novum) emerge that are capable of overturning the basis of the original judgment. In such cases, the law permits the decision to be re-examined and potentially overturned through the judicial review process.

A petition for judicial review may only be submitted once and does not suspend or halt the execution of a court decision. This provision affirms that legal certainty concerning a legal relationship or event that has been adjudicated must be respected, unless and until it is annulled by a subsequent court ruling. Article 24 paragraph (2) of Law No. 48 of 2009 concerning Judicial Power (hereinafter referred to as Law No. 48 of 2009) stipulates that a judicial review decision cannot be subject to another judicial review.

Thus, the limitation of judicial review to a single submission in civil procedure law carries two interpretations. First, a petition for judicial review may only be filed once and may not be submitted again. Second, a judicial review petition against a previous judicial review decision is not permitted. However, it may still be possible to file a judicial review petition against a court decision that has obtained final and binding legal force.

In criminal procedural law, however, the submission of more than one judicial review petition is permissible following the Constitutional Court Decision No. 34/PUU-XI/2013, which declared Article 268 paragraph (3) of the Indonesian Code of Criminal Procedure (KUHAP) to be unconstitutional and non-binding. The Constitutional Court reasoned that the extraordinary legal remedy of judicial review, from both a historical and philosophical perspective, exists to protect the rights of the convicted. This differs from ordinary legal remedies, such as appeal or cassation, which are closely tied to the principle of legal certainty. Without time limits, ordinary remedies would create legal uncertainty and thereby result in injustice, as legal proceedings would never reach finality.

It is important to note, however, that the Constitutional Court's ruling applies exclusively to criminal cases and not to civil proceedings, as the decision only invalidated the relevant

provision within the KUHAP and did not extend to judicial review regulations governing civil law matters (Hernoko et al. 2016).

With regard to decisive written evidence that could not be discovered during the examination of the case—commonly referred to as novum—this is regulated under Article 67 letter (b) of Law No. 14 of 1985, as amended by Law No. 5 of 2004 and further amended by Law No. 3 of 2009, in conjunction with Supreme Court Regulation of the Republic of Indonesia No. 1 of 1982 concerning the Revised Supreme Court Regulation No. 1 of 1980, which provides the following: **“If, after the case has been decided, decisive written evidence is discovered that could not have been found during the original examination of the case.”**

New evidence (novum) refers to a written document containing facts that already existed at the time the original case (a quo) was examined at the first instance level but were not submitted, reviewed, or disclosed during the proceedings, and were only discovered after the case was decided. Such evidence must be decisive in nature—meaning that had it been submitted, examined, and considered by the court, the outcome of the case would have been different. In the Dago Elos land dispute, the novum in question is the later revelation that individuals claiming to be lawful heirs of the Muller Family had intentionally inserted false information, namely the addition of the surname "Muller" to their birth certificates, without any formal court ruling authorizing the name change.

Supreme Court Circular Letter No. 10 of 2009 on Judicial Review addresses two key provisions. First, if a second or subsequent judicial review is filed in a case, the Chief Judge of the court of first instance must declare the petition inadmissible and is not required to forward the case file to the Supreme Court. Second, if there are two or more judicial review decisions that contradict one another in relation to the same subject matter—whether in civil or criminal proceedings—and one of the cases becomes the subject of a new judicial review request, then that request must be accepted and the case file must be submitted to the Supreme Court for consideration.

In addition to Supreme Court Circular Letter (SEMA) No. 10 of 2009, the Supreme Court of the Republic of Indonesia also issued Supreme Court Circular Letter No. 7 of 2014 concerning the Submission of Judicial Review Petitions in Criminal Cases (SEMA No. 7 of 2014). This circular was issued in response to the surge in judicial review petitions filed by convicted persons following the Constitutional Court Decision No. 34/PUU-XI/2013 dated 6 March 2014, which declared Article 268 paragraph (3) of Law No. 8 of 1981 on Criminal Procedure to be unconstitutional and lacking binding legal force under the 1945 Constitution. In response, the Supreme Court emphasized the following in SEMA No. 7 of 2014:

1. With reference to Article 24 paragraph (2) of Law No. 48 of 2009 on Judicial Power in conjunction with Article 66 paragraph (1) of Law No. 14 of 1985 as amended by Law No. 5 of 2004 and Law No. 3 of 2009;
2. The Constitutional Court Decision No. 34/PUU-XI/2013 solely reviewed Article 268 paragraph (3) of Law No. 8 of 1981 and did not affect the Law on Judicial Power or the Law on the Supreme Court;
3. The Supreme Court maintains the position that a judicial review (Peninjauan Kembali) may only be submitted once;
4. A second or subsequent judicial review petition may only be accepted under the condition provided in SEMA No. 10 of 2009, namely where there exist two or more judicial review decisions concerning the same object of dispute that contradict one another, whether in civil or criminal matters;
5. Outside of this exception, the Chief Judge of the court of first instance is instructed to reject any judicial review petition submitted more than once.

With the issuance of these Supreme Court Circular Letters (SEMA), the Supreme Court has firmly established the principle that a petition for Judicial Review may only be submitted

once. However, a second judicial review or a judicial review of a prior judicial review decision may still be allowed under exceptional circumstances—specifically when there are two or more final and binding court decisions (in kracht van gewijsde / res judicata), whether in civil or criminal matters, that are in conflict with one another. This exception is expressly stipulated in Supreme Court Circular Letter No. 10 of 2009, which states: **“If there exist two or more judicial review decisions concerning the same subject matter that contradict one another, whether in civil or criminal cases, and one of those decisions becomes the object of a further judicial review petition, then the petition shall be accepted and the case file must be forwarded to the Supreme Court.”**

The Dago Elos land dispute has undergone multiple stages of litigation, resulting in two final and binding decisions (in kracht van gewijsde / res judicata) that are contradictory. The 2019 cassation decision ruled that the Muller Family had no legal right over the Dago Elos land, while Supreme Court Decision No. 109 PK/Pdt/2022 granted legal recognition to the Muller Family, affirming that Heri Hermawan Muller and Dodi Rustandi Muller were the rightful heirs of George Hendrik Muller and held lawful ownership over the disputed property. However, Decision No. 601/Pid.B/2024/PN Bdg revealed new evidence (*novum*)—that Heri Hermawan and Dodi Rustandi had intentionally inserted false information into their birth certificates by adding the surname "Muller" without any judicial determination. This act of falsification invalidates their claim as legal heirs of George Hendrik Muller.

In light of these facts, and in accordance with the provisions of Supreme Court Circular Letter No. 10 of 2009, a second petition for judicial review or a judicial review of the prior judicial review decision may be lawfully submitted. The proven criminal offense of “using an authentic deed containing false information as if it were true” nullifies the evidentiary foundation upon which the Muller Family's ownership claim was established in the 2022 judicial review. Accordingly, to restore the rightful ownership status of Dago Elos residents—particularly those holding valid Certificates of Ownership a second judicial review petition may be filed as an extraordinary legal remedy. This procedural path is expressly permitted under SEMA No. 10 of 2009 in cases where two or more final and

CONCLUSION

Based on Decision No. 601/Pid.B/2024/PN Bdg, Heri Hermawan Muller and Dodi Rustandi Muller were legally and convincingly proven to have committed the criminal offense of “using an authentic deed containing false information as if its contents were true.” It was established that they had deliberately inserted false information into their birth certificates—specifically, the addition of the surname “Muller”—without obtaining a court ruling to authorize such a change. Accordingly, in line with Supreme Court Circular Letter No. 10 of 2009, if new evidence (*novum*) is discovered and there exist two final and binding court decisions (in kracht van gewijsde / res judicata) that contradict one another, the injured party—in this case, the residents of Dago Elos—has the legal right to file a second petition for judicial review (Peninjauan Kembali) or a judicial review of the previous judicial review decision. Such a legal remedy serves as a means to restore the rightful ownership status of the Dago Elos community over the disputed land.

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