The years-long unfulfilled promise
The land conflict between the people of Binasari Hamlet in South Tapanuli Regency, vs. PT. Ondop Perkasa Makmur/PT. Austindo Nusantara Jaya Agri Siais



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Profile of the Company:
PT. Ondop Perkasa Makmur (OPM), which has transformed into PT. Austindo Nusantara Jaya Agri Siais (ANJAS), is a corporation based in Jalan Timur Baru I No. 17/47 in Medan. The corporation is active in the culture of oil palm in South Tapanuli Regency, based on Decision of the Regent of South Tapanuli No. 525.26/1527/K/2003 dated 8 September 2003. After obtaining the plantation business permit, the company received on 17 June 2004, from the Regent, Location Permit No. 590/372/K/2004 for the purpose of an oil palm plantation in the name of PT. Ondop Perkasa Makmur with an area of 8,000 hectares located in Batang Angkola and Siais (now Angkola Selatan) districts in South Tapanuli Regency. On 28 October 2004, the Head of the BPN issued Decision No. 123/HGU/BPN/2004 on the awarding of the right to use (HGU) of land in South Tapanuli Regency, North Sumatra Province, to PT. Ondop Perkasa Makmur (OPM) with an area of 8,000 hectares, followed up with the issuance of a land deed.

PT. Ondop Perkasa Makmur was transformed into PT. Austindo Nusantara Jaya Agri Siais as it was acquired by PT. Austindo Nusantara Jaya (PT.ANJ) Group in 2004, which is a holding company based in Jakarta. PT. ANJ has become a member of the Roundtable on Sustainable Palm Oil (RSPO) since 26 February 2007, as an ordinary member. Currently, PT. Austindo Nusantara Jaya Agri Siais as a subsidiary and supply base to PT. Austindo Nusantara Jaya (PT. ANJ) is still undergoing assessment of RSPO principles and criteria, beginning in 18 July 2016, by the certification institution PT. Mutuagung Lestari, and has not received an 'approved' status.[1]

PT Austindo Nusantara Jaya Tbk (ANJ) is a holding company active in oil palm plantation. The company produces and trades in palm oil and palm kernels directly and through its subsidiaries

Profile of the People of Binasari Hamlet:
The people living and performing agriculture in Binasari Hamlet, Pardomuan Village, Angkola Selatan District of South Tapanuli District have lived in the hamlet since the 1990s.

After an access road was built, in 1996 the government of South Tapanuli Regency, through the Local Transmigration (Translok) program, placed 100 families with a plot area of 2.5 hectares per head of family. After the local transmigrants settled on part of the land, in the same year, Napa Farmers Union (KTNA) requested for land from the Regency, and was given with 1,050 hectares of land.

After the local transmigrants and the Napa Farmers Union (KTNA) received the land, on 1 April 1996, the Sarikat Islam of Siais District of South Tapanuli Regency through letter No. Ist /SI-IV/ 96, applied for permission for land clearing the to Regent of South Tapanuli. Then on 3 May 1996, the Regent of South Tapanuli through Letter No. 520/3523 responded to the application. The follow-up was the Head of Siais District issued Letter No 520/375 dated 6 September 1996 addressed to the Regent of South Tapanuli, which contains a field review report on the land petitioned by SI. The land requested by the SI was said to be located near Paraupan, with a wet condition and highly suitable for the opening of rice fields.

After five years with the status of preparatory village, on 22 May 2003, the Head of Siais District issued Letter No. 141/296/2003, appointing Amron Pohan as Head of Binasari Hamlet of Pardomuan Village, Siais Sub-district. Through the letter, the status of Binasari Preparation Village was changed to Binasari Hamlet of Pardomuan Village, Siais District.

[1] https://www.rspo.org/members/150/PT-Austindo-Nusantara-Jaya-Agri accessed 15 September 2017

The Chronology of Conflict and Unlawful Action Conducted by PT. OPM/PT. ANJAS

The issuance of Decree of South Tapanuli Regent No. 525.26/1527/K/2003 dated 8 September 2003 granted a Plantation Business Permit to begin 9 months after obtaining the permit. On 17 June 2004, the South Tapanuli Regent through Letter No. 590/372/K/2004 issued the Location Permit for Oil Palm Plantation in the name of PT. Ondop Perkasa Makmur (OPM) with an area of 8,000 hectares. PT. OPM/PT. ANJAS began to conduct land clearing, cleaning and planting, even land acquisition and submission of HGU to the National Land Agency (BPN) in Jakarta.

4 months and 11 days after receiving the location permit, on 28 October 2004, PT. OPM has been granted the right to use from the BPN through Decision No. 123/HGU/BPN/2004 on the awarding of the right to use (HGU) of land in South Tapanuli Regency, North Sumatra Province, to PT. Ondop Perkasa Makmur (OPM) with an area of 8,000 hectares.

Before the HGU was issued, Muhammad Harahap, the Public Relations of PT. OPM met Amron Pohan, the head of the hamlet. Amron did not know why Harapan asked him to provide his signature on a blank sheet of paper. The PR explained that the signature was only for a report to be sent to Jakarta for his field research. There was no talk about the plan to create the plantation, and Harahap merely told that they intend to cooperate. He then gave Amron Rp 50,000.

On 19 March 2004, the district head of Siais, Drs. Abdul Hamid Nasution, sent Letter No. 525/213/2004 to the South Tapanuli Regent, that the Regent should review the application for the plantation business permit of PT. OPM/ PT. ANJAS, and that in the giving of a location permit to PT. OPM/PT. ANJAS, the Regent should consider the area of the villages and community enterprises.

Violence by PT. OPM/PT. ANJAS to the People of Binasari Hamlet After the Issuance of HGU

PT. OPM/PT. ANJAS began forced expulsion of the people of Binasari, forcing them to leave their land and settlement. This was done multiple times using violence and threats. The company destroyed productive crops of the people, which is also the sole source of livelihood of the settlement, using heavy machinery, supported by security officers paid by PT. Ondop Perkasa Makmur (OPM)/PT. ANJAS. Consequently hundreds of hectares of productive community crops were flattened without mercy by PT. OPM/PT. ANJAS.

The company also conduced acts of terror and intimidation to the citizens forcing them to leave their lands and homes in Binasari Hamlet. The brutal actions of the thugs paid by PT. OPM/PT. ANJAS resulted in the destruction of scores of houses in Binasari Hamlet, so that the company could take over the land.

Physical violence also occurred in the form of beatings and assault to the people of Binasari Hamlet who do not want to give up their land and leave the hamlet. This is also done by the order of PT. OPM/PT. ANJAS, experienced by dozens of inhabitants of the hamlet. There was also an incident of shooting by a Brimob policeman under the orders of PT. OPM/PT. ANJAS, to a woman trying to block the heavy machinery destroying her rice field. She was shot several times indirectly, to her right and left.

PT. OPM/PT. ANJAS also criminalized the people who tried to defend their rights to the land. There have been allegations of land grabbing by residents, allegations of illegal logging for people taking timber from their own land to build simple huts, allegations of mistreatment and assault imposed on residents who prevent heavy equipment operators from harming crops, aggravated theft for people taking the keys of the heavy equipment destroying the crops and land belonging to the community, as well as allegations of trespassing the plantation.

The victims of criminalization in Binasari include Muhammad Nur Harahap, Syahruddin Harahap, Mujur Erwin Siregar, and Herman, charged of committing criminal acts jointly or individually using

privately owned land as regulated in Article 385 paragraph 1 jo. Article 55 paragraph 1 of the Criminal Code. After a process to the cassation level, the Supreme Court (Decision No. 263 K/Pid/2007) declared them to be innocent, and they were released from all charges. Although eventually the allegations of PT. OPM/PT. ANJAS were not proven, they as legal subjects and rights holders have experienced various forms of material and immaterial damages from the alleged offense, having been accused as perpetrators of crime.

Demands for Land and Realization of Partnership

In facing the problem of land conflict with PT.OPM, the people of Binasari have made various efforts since 2004. These efforts have not resulted in the settlement of the land conflict between PT. OPM/PT. ANJAS and the people of Binasari Hamlet. The following are several of the efforts that have been done by the people of Binasari Hamlet.

1. Various communications and approaches have been made to PT. OPM/PT. ANJAS by the representatives of the residents of Binasari hamlet, both directly between the community and PT. OPM/PT. ANJAS, as well as through mediation of the South Tapanuli Regency government. However, the agreements made have never been followed up by PT. OPM;

2. A flash flood struck Lorong III of Binasari Hamlet in 2005, claiming lives and property of the citizens. When the regency government entourage led by the Regent and Vice Regent of South Tapanuli visited the location of the flash flood, representatives of the community used the momentum to convey their problem with PT. OPM. The regent offered that the head of Binasari Hamlet Amron Pohan recorded all the citizens of Binasari so that they are listed as plasma participants with 2 hectares per family, with a partnership with PT. OPM/PT. ANJAS as a solution in the land issue between the company and the people of Binasari;

3. Following up the offer of the South Tapanuli Regent, then Head of Hamlet of Binasari collected data of Binasari residents to be incorporated as plasma participants with a partnership pattern. The data collection resulted in a list of 205 households as eligible plasma participants;

4. The complaint of Binasari residents to Commission II of South Tapanuli DPRD, Report of Working Meeting of Commission II of the Regional House of Representatives (DPRD) of South Tapanuli Regency with the Executive and Related Parties dated 4 August 2005, in particular in the conclusion section, suggesting the relocation of the HGU of PT.OPM, because the land included in the HGU is the community land of Binasari Hamlet and Fathan Mubina foundation;

5. On 8 September 2005, the Commission Joint Meeting in the Plenary Meeting Room of the DPRD of South Tapanuli Regency had an agenda of discussing the issue of land dispute between Binasari Hamlet/Fathan Mubina Foundation of Siais Subdistrict and PT. OPM/PT. ANJAS. The meeting decided that PT. OPM/PT. ANJAS should withdraw their complaint on an alleged criminal case perpetrated by citizens detained in the South Tapanuli Police Resort, no later than 9 September 2005, and forming a team to visit the location consisting of the legislative, executive, PT.OPM, community/foundation and related parties;

6. On 8 November 2005, Binasari Hamlet sent Letter No. 032/SK/DBS/2005 addressed to the Head of the National Land Agency in Jakarta, requesting review of PT.OPM's HGU;

7. On 8 November 2005, Binasari Hamlet sent Letter No. 031/SK/DBS/2005 addressed to the Chief of Police of North Sumatra, Irjen Pol Drs. Iwan Panjiwinata, complaining about PT. OPM and members of the South Tapanuli Police who commited acts of violence against citizens and urging legal certainty of Benny Basri Siregar who was criminalized;

8. On 15 January 2006, Rostipa br. Siregar's report/complaint to South Tapanuli Resort Police Chief for the criminal act of violence and destruction of the rice fields of citizens conducted by PT.OPM men namely Sucipto, Emir Salim, and 3 Brimob members namely Wahad Harahap, Harry Jusman and Aipda Dasli Tanjung;

9. On 5 April 2006, Binasari Hamlet sent letter addressed to North Sumatra Police Chief Irjen Pol Bambang Hendarso Danuri, reporting the arrogant actions of PT.OPM (police and thugs);

10. On 1 May 2006, Binasari Hamlet sent letter No. 044/SK/DBS/2006 addressed to the South Tapanuli Regent, on the allegations of illegal land compensation done by PT. OPM, on which basis PT.OPM grabbed the lands and plants of the people;

11. Various efforts made by community members in facing the land problem with PT. OPM/PT. ANJAS has not produced results, and instead resulting in increasingly aggressive conduct of terror, intimidation and forced evictions, destruction of citizens' houses, destruction of community crops, resulting in fear in the Binasari society who finally evacuated and asked for protection from the South Tapanuli Regency House of Representatives, with all community members moving to the office of the South Tapanuli DPRD until they were given a guarantee of security and settlement to the land dispute. This action was conducted by the community for a 78-day period in July-September 2006;

12. To respond to the Binasari community's demands, on 27 July 2006, the South Tapanuli Regency Government, South Tapanuli DPRD and PT. OPM/PT. ANJAS signed a Memorandum of Understanding (MoU) on the solution of the problem between Binasari Hamlet and KTNA farmer group with PT. OPM/PT. ANJAS, that the company would employ the people of Binasari and KTNA members residing around the company's HGU location. The company would maintain the residences and yards of the people of Binasari on the roads outside the company's HGU area. The company would build a plantation with a partnership pattern with the people of Binasari and KTNA equal to 2 hectares for each household (with a total of 205 households), and also the company promised to conduct a community empowerment program in accordance with the corporate social responsibility to Binasari citizens and KTNA members;

13. On 20 August 2008, an agreement on the Memorandum of Understanding concerning the settlement of the land dispute involving Binasari/KTNA between the Government of South Tapanuli Regency, DPRD and the OPM was signed, with Pendi Tambunan, Drs. Bakhtar Nasution, M. Nuh Hasibuan, Rokita and Amron Pohan representing Binasari Hamlet;

14. On 27 May 2009, the Report of the Special Committee for Discussion on the Land Problems of the South Tapanuli Regency and PT. OPM explained various violations committed by PT. OPM/PT. ANJAS, including a conclusion that the issuance of HGU to PT. OPM/PT. ANJAS was legally flawed;

15. In 2011, horizontal conflict continues to occur and increase, because the content of the MOU has not been implemented. The intended partnership involving 205 households only addressed 81 households, and there were also no data about potential participants not among the 205;

16. The WAMASRI (Wahana Masyarakat Binasari Mandiri) was established, aiming to fight for the realization of plasma land for Binasari residents in accordance with the data of 205 households when the memorandum of understanding was signed in 2006;

17. In 2011, because the MoU has not been fulfilled by the company, representatives of the Binasari community held bilateral talks with the Director of PT. OPM, facilitated by Sawit

Watch and Forest People Program at Hotel Mulia Jakarta. Through the meeting, the company promised to solve the problem and fulfil the MoU, but this has not been realized to this day.

Thus the description of the problems faced by the people of Binasari Hamlet in connection with the land grab conducted by PT. Ondop Perkasa Makmur, followed by various acts of intimidation, terror, violence and criminalization against Binasari society since 2004. Up to now, the public still demands the realization of partnership based on the 2006 Memorandum of Understanding.

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