

Good Faith in Plantation Management Contract between PTPN V and Koperasi Nenek Eno Senamanenek

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ABSTRACT

Good faith is fundamentals in every contract, without which a contract will find it difficult to achieve its goals. In 2019, through a contract made before a notary in the hall of Kampar Regent Office, Koperasi Nenek Eno Senamanenek and PT. Perkebunan Nusantara IV start a new beginning after a long period of dispute over Senamanenek community's customary land. The good faith in fulfillment of contract between KNES and PTPN V would affect the legal relationship between these two parties. For KNES, the realization of the clauses within the contract will affect senamanenek community who become the member of the cooperative. The contract object was a palm oil plantation owned by the cooperative member. This empirical legal study scrutinized the implementation of good faith in the contract between KNES and PTPN V By identifying the law and the effectiveness of legal principles in the community. It took place in Kampar Regency. Primary, secondary, and tertiary data were collected through interviews and literature review. This study concludes that the good faith has not been fully implemented in the contract between PTPN V and KNES due to legal and non-legal factors. Therefore, both

parties are suggested to possess a good faith in all stages of the contract-making process, from the pre-contract, contract, and post-contract stages. They are also suggested to minimize factors inhibiting good faith in the contract.

Keywords: Contract; Good Faith; Oil Palm; Plantation

I. INTRODUCTION

Palm oil industry plays a strategic role in Indonesia's macro economy. In addition to being the largest source of foreign exchange, the palm oil industry has become the country's national economic locomotive, supports the energy sovereignty, promotes people's economy, and significantly absorbs employment. Rapid expansion of oil palm plantation in Indonesia reflects the significant revolution of this sector. It develops in 22 out of 33 Indonesian provinces. Sumatera and Kalimantan serve as the center of oil palm plantation in the country. Around 90% of oil palm plantation is located in these two islands, accounting for 95% of the country's crude palm oil production. The period of 1990-2015 has witnessed Indonesia's oil palm plantation revolution, representing a 24% growth every year within this period. In 2015, Indonesia had 11.3 million hectares of oil palm plantation (Ministry of Agriculture, 2015), which increased to 16 million hectares in 2017. Currently, smallholder plantation accounts for 53% of the total plantation area in Indonesia, followed by the private plantation (42%) and the state plantation (5%). In 2017, Indonesia's CPO production was predicted to reach 42 million tonnes.¹

Agrarian people heavily rely on the plantation sector to obtain a stable income and survive the global competition. In Indonesia, rubber and palm oil plantations serve as one of the sources of the State-owned enterprises' (SOE) income. The community, either individually or in a group, work on land to open plantations through intensification or extensification. Smallholder plantation becomes a promising source of income that guarantees people's welfare. Hence, more people are interested in investing

¹ Purba, Jan Horas V. and Tungkot Sipayung. "Perkebunan Kelapa Sawit Indonesia Dalam perspektif Pembangunan Berkelanjutan." *Jurnal Masyarakat Indonesia*, Vol. 43, No. 1, 2017, pp. 81-94, <https://doi.org/10.14203/jmi.v43i1.717>.

in this sector. Palm oil continues to be an attractive commodity in both global and local markets, hence drawing investors' interest in investing in palm oil plantation industry.

Some plantations are not managed independently by the community. There are various systems with respect to the plantation management, such as joint ventures and wage systems for plantation management. These systems have their own underlying factor, which also affect the agribusiness men's decision.²

Partnership is one of the solutions to plantation management, in which involved parties are bound to a contract legal relationship based on mutualism principles and respect among them. Partnership is helpful for involving parties to cover limitations between one another.³ An economic activity may bind one party to another, creating a legal relationship between involving parties.⁴ In the concept of contract, each involved party usually arranges a contract to regulate the legal relationships among them based on matters they have agreed upon.. In oil palm plantation context, one of the forms of contract is the the Partnership Contract, to which

Article 1338 of the Civil Code applies:

- “(1) All legally executed agreements shall bind the individuals who have concluded them by law.
(2) They cannot be revoked otherwise than by mutual agreement, or pursuant to reasons which are legally declared to be sufficient.
(3) They shall be executed in good faith. An agreement typically begins with one of the parties committing or making offers, to which another party accepts the offer.”

The study of contract law is inseparable from the presence of legal principles underlying the contract legal structure. The structure of a contract should comprise a number of legal principles that serve as a foundation for the contract.⁵ It should be noted that the implementation of a contract does not always occur seamlessly. A

² Pratama, Andi Pratama. *Perjanjian Pengelolaan Kebun Kelapa Sawit Masyarakat Kecamatan Kuala Pesisir Kabupaten Nagan Raya Menurut Konsep Al-Musaqah*. Undergraduate Thesis Faculty of Syari'ah and Law Ar-Ranity State Islamic University, Banda Aceh, 2018, p. 2.

³ Puteri, Adinda Prisca Anugerah. “Pengaturan Kontrak Inti Plasma dalam Pemberdayaan Usaha Perkebunan yang Patut dan Adil.” *E-Jurnal: Spirit Pro Patria*, Vol. 4, No. 1, 2017, pp. 64-72, <https://doi.org/10.20473/ydk.v30i2.4654>.

⁴ Absah, Siti, et al. “Akad Kerjasama Dalam Pengelolaan Kebun Sawit.” *Jurnal El-Thawalib*, Vol. 2, No. 4, 2021, pp. 265-278, <https://doi.org/10.24952/el-thawalib.v2i4.4236>.

⁵ Harisa, Novran. “Asas Itikad Baik Dalam Perjanjian Arbitrase sebagai Metode Penyelesaian Sengketa.” *Aktualita*, Vol. 1, No. 1, 2018, pp. 261-279, <https://doi.org/10.29313/aktualita.v1i1.3722>.

contract sometimes causes disputes, which should be settled in court. A dispute usually arises due to one of the problems in the contract law, where one of the parties does not implement the contract with a good faith, or being negligent of his or her obligation that has been agreed voluntarily (default). Default usually ends up with a claim of compensation, stated in a certain amount of money. Right to claim for compensation due to default arises when a debtor fails to meet his/her obligation without any justifiable reason.

As mentioned previously, a contract should be executed with a good faith - a doctrine arising from the shift from freedom to make contracts to fairness. Good faith has been widely acknowledged as a fundamental element in law. The interpretation of this provision is then stipulated consistently by the US court as a binding obligation for parties involved in the contract.⁶ This shift indicates that good faith is an important element in contemporary contract law.⁷

Good faith should be present during the making of contract and its implementation,⁸ either in contract made using a private deed or in a contract made using an authentic deed.⁹ Authentic deed becomes the strongest proof that plays important roles in every legal relationship among the community. The need of written proof in the form of authentic deeds increases along with the growing demands for legal certainty in socioeconomic relationships at national, regional, or global level (e.g., in business relationship, banking activity, land relationship, social activities, etc.). An

⁶ According to Lord Kenyon, Court, in its development, has positioned good faith as a principle of any form of contract, cited from Manson, A.F. "Contract, Good Faith and Equitable Standard in Fair Dealing," *The Law Quarterly Review*, Vol. 116, 2000, pp. 66-116, <http://hdl.handle.net/1885/89536>.

⁷ Judd, Jeffrey M. "The Implied Covenant of Good Faith and Fair Dealing: Examining Employees Good Faith Duties." *The Hastings Law Journal*, Vol. 39, 1998, pp. 483-516, https://repository.uchastings.edu/hastings_law_journal?utm_source=repository.uchastings.edu%2Fhastings_law_journal%2Fvol39%2Fiss2%2F8&utm_medium=PDF&utm_campaign=PDFCoverPages.

⁸ Article 1338 paragraph (3) of Indonesian Civil Code states that all contracts should be made with good faith.

⁹ Authentic deed refers to a deed made and formalized before a public official, who is authorized to do so in the place where the deed is made, cited in Soegondo, R. *Hukum Pembuktian*. Jakarta, Pradnya Paramita, 1991, p. 89. One of the authentic deeds is the notarial deed.

authentic deed that clearly describes rights and responsibilities will provide legal certainty and is expected to prevent disputes.¹⁰

Good faith is one of the legal instruments to limit one's freedom to make a contract and the contract's binding power.¹¹ Good faith is fundamental in order to realize each contract. Good faith helps the realization of the contract's goal. The absence of good faith will likely inhibit the realization of the contract. Good faith is reflected in the execution of the contract once it is legally made. Article 1368 of Indonesian Civil Code states that the implementation of a contract is limited by appropriateness and decency.¹²

In practice, parties involving in a contract sometimes encounter problems to implement the contract. This study identified the oil palm plantation management contract between PTPN V and Koperasi Nenek Eno Senamanenek (KNES). The contract was made before a notary in the hall of Kampar Regent Office. This contract represent the new beginning between the two parties after long period of dispute over Senamanenek people's customary land. The good faith to execute the contract between KNES and PTPN V would affect the legal relationship between these two parties. For KNES, the realization of the clauses within the contract will affect senamanenek community who became the member of the cooperative, considering that the contract object was a palm oil plantation owned by the cooperative member.

Good faith is one of the most important principles in contract law (Subekti, 2005). Syahrani (2006) asserts that good faith plays an important role in a contract, with which a contract could be implemented optimally.¹³

¹⁰ Hendra, Rahmad. "Tanggungjawab Notaris Terhadap Akta Otentik Yang Penghadapnya Mempergunakan Identitas Palsu di Kota Pekanbaru." *Jurnal Ilmu Hukum*, Vol. 3, No. 1, 2013, pp. 1-22, <http://dx.doi.org/10.30652/jih.v3i01.1029>.

¹¹ Absi, Warmiyana Zairi and Rusniati. "Prinsip Itikad Baik Dalam Suatu Kontrak." *Jurnal Justicia*, Vol. 14, No. 1, 2022, pp. 1-10, <http://117.74.115.107/index.php/justici/article/view/471>.

¹² Turangan, Aditya Fadli. "Pelaksanaan Perjanjian Dengan Itikad Baik Menurut Pasal 1338 Kuhperdata." *Lex Privatum*, Vol. 7, No. 1, 2019, pp. 46-51, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/25866>.

¹³ Purwono, R. Tri Yuli. "Penerapan Asas Itikad Baik Pada Perjanjian Kerjasama Endorsement Pada Online Shop Dengan Selebriti Instagram di Kabupaten Sleman." *Jurnal Kajian Hukum*, Vol. 4, No. 2, 2019, pp. 23-50, <https://e-journal.janabadra.ac.id/index.php/KH/article/view/1628>.

To date, there is no single meaning of good faith in contract, thus triggering debates on what is the true meaning of this principle. Good faith should refer to values that live in society because it is part of the community.

In this study's context, the implementation of contract between KNES and PTPN V has created a new conflict between the adat community in Sinamanenek village and KNES.¹⁴ KNES is a cooperative that manages an oil palm plantation formerly owned by PTPN V, which was included in the government's TORA program for Sinamanenek people a few years ago. After being managed by KNES for some time, some people felt they were treated unfairly because they received only 1 million rupiah every month as a profit sharing yield” Yusteng said on Tuesday (28/6/2022). This issue turned into conflict between the cooperative and the members, who were beneficiaries of the TORA program.

The conflict continues to escalate, as the members seek justice for KNES' action by asking for the land they receive from the TORA program. Some of them even questioned their land certificate to KNES. The rumor said that the land certificate was misused by KNES, and some members filed a report to Kampar Resort Police Force for only receiving 1 million rupiah per month from KNES.

Based on the description above, this study aims to analyze the implementation of good faith in oil palm plantation management contracts between PTPN V and KNES.

The study took place in Sinama Nenek Village and the cooperative, Kampar Regency. It examined the legal practice in the field by involving institutions, organizations, and individuals as the study population. Informants in this study were recruited using a purposive sampling technique. Primary and secondary data in this study were collected from interviews with local people and literature review, respectively.¹⁵

¹⁴ NadaRiau. “YRHW Duga Ada Pembiaran Pemerintah Terhadap Konflik di Tubuh Koperasi KNES.” *Nadariau.com*, 28 Juni 2022, <https://nadariau.com/2022/06/28/yrhw-duga-ada-pembiaran-pemerintah-terhadap-konflik-di-tubuh-koperasi-knes-kampar/>, accessed on 1 July 2022.

¹⁵ Soekanto, Soerjono. *Penelitian Hukum*. Jakarta, Raja Grafindo Persada, 2001, pp. 12-13.

II. DISCUSSION

1. Good Faith in Oil Palm Plantation Management Contract between PTPN V and Koperasi Nenek Eno Senamanenek KNES

The growth of a business sector has increased the demands for collaboration among businesspeople at national or international levels, which should be translated into a contract. A contract is made according to the needs of each involving parties, it may take forms of a good and service procurement contract, business contract, or employment contract.

According to Erman Rajagukguk, a contract is basically a written document containing the interest of each involved party to achieve their commercial goal, and how each party should benefit, be protected, and responsible for achieving the expected goal.

It is one of the most important aspects in a business relationship. It gives certainty related to parties with whom a person is conducting business, the domain of partnership, and as the protector of each party's right when an unexpected event occurs. In order to make a good and proper contract, an adequate knowledge of contract law is needed. Law itself is not merely a principle, as it encompasses the process and institution for realizing the principle in the community.¹⁶

In this context, contract law is not merely a principle stated in the regulation. Indonesian Civil Code, or Burgerlijk Wetboek, is a set of rules made by the Dutch Government and then applied in Indonesia. The Dutch government's colonial law is applied as the national law based on the concordance principle through article II of Transitory Provision, which is amended to be article 1 of the Transitory provision of the 1945 Constitution. Rules in this document have been adjusted to the development of situation, condition, and needs in the state's life.

Good faith becomes one of the classic principles in contract law, which is also stipulated in the Civil Code. This principle originates from the *bona fides* concept in Roman contract law. Modern contract law emphasizes that good faith should not only

¹⁶ Valentino, J. *Pelaksanaan Perjanjian Bagi Hasil Tanah antara Pemilik dan Penggarap Perkebunan Kelapa Sawit di Desa Petapahan, Kecamatan Tapung, Kabupaten Kampar*. Undergraduate Thesis Faculty of Law Riau Islamic University, Indonesia, 2021, p. 8.

be implemented after the contract signing, but should be present since the pre-contract phases. This principle has been applied in Civil law countries like France, the Netherlands, and Germany. French Civil Code is known to influence the Dutch's Burgerlijk Wetboek, which is adopted to be Indonesian Civil Code.¹⁷

Good faith should refer not only to good faith among the involved parties but also to the values living in the society. Good faith should reflect the standard of fairness and appropriateness of the community.¹⁸ Before performing a business transaction and making a contract, involved parties usually engage in early negotiation. According to Oxford Dictionary:

“Negotiation is a dialogue between two or more people or parties, intended to reach an understanding.”

Another term used for this process include offers, negotiation, discussion, intermediation, and barter.

In Indonesia, the principle of good faith does not significantly shift from the understanding in several decades ago. Economic globalization has promoted the development of business transactions and given birth to various types of contracts, but not the principle of the contract.

In Indonesia, the development of good faith principle in contract law focuses on the implementation of article 1338 paragraph (3) of the Civil Code, and the scope is still limited to the implementation of the contract, implying that the Civil code seems not to acknowledge the good faith during pre-contract stages. As a comparison, the modern contract theory states that the party suffering from loss during the pre-contract stage, his/her rights should be protected. Thus, promises during the pre-contract stage may bring legal consequences for any party who violates them.¹⁹

Countries adhering to common law like the USA and England have also prevented individuals from revoking their promises using the “*promissory estoppel*”

¹⁷ Yuanitasari, Deviana. “Pengembangan Hukum Perjanjian Dalam Pelaksanaan Asas Itikad Baik Pada Tahap Pra Kontraktual.” *Acta Diurnal*, Vol. 3, No. 2, 2020, pp. 292-304, <https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/228>.

¹⁸ Arifin, Miftah. “Membangun Konsep Ideal Penerapan Asas Iktikad Baik Dalam Hukum Perjanjian.” *Jurnal Ius Constituendum*, Vol. 5, No. 1, 2020, pp. 66-82, <http://dx.doi.org/10.26623/jic.v5i1.2119>.

¹⁹ *Ibid.*

legal doctrine. This doctrine prevents a promisor to revoke his/her promise when the promisee, due to his/her trust in the promise, has /has not done an action, and the promisee may suffer from loss if the promisor revokes his/her promise. Thus, in countries adhering to Civil law or Common law, studies on good faith provides spaces for judges to dive into and consider the concept of fairness and appropriateness during the pre-contract stage, and eventually acknowledge the principle of good faith

In the pre-contract stage. The implementation of good faith should ideally begin before the contract is made until the contract is finished.²⁰ The investigation of good faith should be done in each contract stage, from the contract design stage, contract signing stage, and implementation stage.²¹

One example of a contract could be seen from the oil palm plantation management contract between PTPN V and KNES. The following sections dissect this contract in three stages:

(a) Pre-contract stage. This discussion begins with the mechanism through which a contract between KNES and PTPN V regarding the management of oil palm plantation on the customary land owned by the adat community in Senamanenek (MAS). A peace agreement emerges after a long period of internal and external conflict, and this agreement becomes the stepping stone for MAS to regain their customary land under PTPN V's management.

Using a peace deed, public figures of MAS ask Kampar Regent to help return their customary land from PTPN V, and ask the regional government to facilitate them and the central government and PTPN V, with respect to the return of their customary land.²² The Regent responds to the request by strengthening the peace deed and summoning the conflicting parties to enhance their peace commitment. The meeting also determined *ninik-mamak* was entitled to the customary land when the government returned the land to MAS.

²⁰ *Ibid.*

²¹ Priyono, Ery Agus. "Peranan Asas Itikad Baik Dalam Kontrak Baku (Upaya Menjaga Keseimbangan Bagi Para Pihak)" *Diponegoro Private Law Review*, Vol. 1, No. 1, 2017, pp. 13-22, <https://ejournal2.undip.ac.id/index.php/dplr/article/view/1934>.

²² Mukhlis. Tokoh MAS di Desa Tapung Hulu, Kampar. Personal Interview. 25 July 2022.

Private meeting on 3 May 2019 discussed the plan of returning 2800 hectares of MAS's customary land managed by PTPN V. The meeting concludes with the president instruct the related ministry, including PTPN V, to hand over 2800 hectare of land to MAS, in which the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency (ATR/BPN) is appointed to be in charge of the customary land transfer to MAS.

This 2800 hectares of land was transferred indirectly from PTPN V to MAS in the form of returning of land and assets to the state through National land agency (BPN). This is recorded in the Report of the Return of Land Tenure Number 5/SPR/BA/01/VII/2019 signed by the President Director of PTPN V on 5 July 2019, stating that a 2800 hectare of land is returned to the State through the Head of BPN of Kampar Regency, witnessed by the Kampar Regent. This 2800 hectare of customary land was distributed to MAS in 1385 land certificates. According to Article 16 paragraph (1) letter a of Law no. 5 of 1960 on Basic Agrarian Law, the land was distributed in the form of individual land ownership certificate, not communal.

Together with the land and asset transfer by PTPN V to the community through BPN, KNES was appointed as the representatives of MAS that will conduct a partnership contract with PTPN to manage the oil palm plantation that has been transferred to the community.

The contract draft negotiation took a long time, there were at least four meetings involving PTPN V, POLRES, BPN, Regional Government, and KNES representatives. This draft negotiation process took a long time due to several factors:²³ (1) The presence of a clause that the land should not be sold or handed over to the third party, either officially or privately, (2) The presence of a clause stating that the land certificate is stored by the Kampar Regency Government; (3) The presence of a clause regarding the concept of oil palm plantation single management.

Considering that the distributed land was actively managed by PTPN V based on the article 33 paragraph (3) of the 1945 Constitution, it was expected that this well-managed land could be sustained and bring optimal results for the people. Thus, KNES,

²³ Edo. PTPN V Legal Department. Personal Interview. 21 Juli 2022.

as the representative of MAS, should understand this concept in order to achieve public welfare. The Single management concept was also expected to enhance the quality control of sustainable plantation products.

(b) Contract stage. Following President Jokowi's instruction, PTPN V Immediately handed over and signed a contract with KNES. The signing of MoU was witnessed by Kampar Regent, H. Catur Sugeng Susanto, SH in the meeting room in the 3rd floor of Kampar Bangkinang Regent Office, 16 October 2019. It was also witnessed by the Head of BPN for Riau Area, Muhammad Syahril, SH. The MoU was signed by the President Director of PTPN V, Jatmiko K Santosa, while KNES was represented by the Head (M. Alwi Aripin), Secretary (Kurnia Sejahtera), and the treasurer (Harpin S.Sos). The witnesses of this event were the Head of Plantation, Farming, and Animal Health Agency, Ir Bustan, and the Head of Trading, Cooperative, and MSEs, Zamzani Hasan, SE, M.Si.

The President Director of PTPN V, Jatmiko K Santosa, stated that the partnership contract with KNES has been translated into Addendum through a written correspondence with the involved parties. The MoU states that the land and asset on it have been returned to the state, and the state, represented by the Regional Government of Kampar Regency, has handed over the land and its asset to Koperasi Nenek Eno Sinamanenek, Tapung Hulu District. This land transfer is in the form of Retribution of Land as the object of the Reforma Agraria Program (TORA) consisting of 1385 land parcels.²⁴

(c) Post Contract Stage. A contract may create a responsibility to execute the agreed matter to the agreed party, known as *pacta sunt servanda*. The implementation of each clause in the contract should be done consciously with good faith.

Article 13 of the contract between KNES and PTPN V states that if a party fails to comply with the agreement in the contract, the party is willing to be legally accused according to the law in force. In other words, when a party fails to perform the responsibility, another party reserves a right to make a lawsuit.²⁵

²⁴ *Ibid.*

²⁵ Agreement between PTPN V and the KNES Cooperative.

In the post-contract stage, few matters occur outside the contract provisions: (1) With regard to the operating cost, many items of expenditure that should be paid, that were not agreed and stated in the contract as item of Budget plan, such as personal debt payment, unsuitable item price, and immediate expenditure not mentioned in the budget plan that should be paid; and (2) Internal problems arose between KNES management and KNES member.

Based on the description above, it is clear that the contract between PTPN V and KNES has not been implemented with good faith during the pre-contract, contract, and post-contract stages.

The balance in contract is not determined only from the standing of each party, but also from their good faith. In making a contract, each party should adhere to the principle of good faith, as stipulated in article 1338 paragraph (3) of the Civil Code, stating that a contract shall be executed in good faith.²⁶ However, agreements stated in the contract are often violated. In this regard, justice seekers will hope for a fair settlement when they encounter problems related to the contract implementation.²⁷

Each party should execute the contract in a good faith, and the core of good faith lies in the execution of contractual obligation. In other words, the party who has performed his/her contractual obligation is considered to implement the good faith objectively.²⁸

2. Inhibiting Factor of Implementing Good Faith in Oil Palm Plantation Management Contract between PTPN V and Koperasi Nenek Eno Senamanenek (KNES)

The problem lies in KNES. In this regard, PTPN V could not intervene in KNES's internal problem. The problem regarding Cooperative's surplus stems from

²⁶ Riyanti, Tri Suci. "Implementasi Kuhperdata Tentang Perikatan Pada Perjanjian Kerjasama Antara Pt. Bank Rakyat Indonesia (Persero) Tbk. Dengan Agen Brilink." *Jurnal Ilmu Hukum Prima*, Vol. 5, No. 1, 2022, pp. 35-47, <https://doi.org/10.34012/jihp.v5i1.2458>.

²⁷ Sinaga, Anita. "Peranan Asas Itikad Baik Dalam Mewujudkan Keadilan Para Pihak Dalam Perjanjian." *Jurnal M-Progres*, Vol. 8, No.1, 2018, pp. 47-66, <https://doi.org/10.35968/m-pu.v8i1.186>.

²⁸ Nasution, Gary Hadi Bismar, et al. "Penerapan Asas Itikad Baik Dalam Perjanjian Sewa-Menyewa (Studi Terhadap Perjanjian Sewa Menyewa Outlet di Hermes Building Medan)." *Usu Law Journal*, Vol. 5, No. 2, 2017, pp. 10-17, <https://jurnal.usu.ac.id/index.php/law/article/view/17413>.

undefined costs and debt that should be paid using the budget plan without the member's consent.

It should be noted that the validity of a contract affects the binding force of the contract, which may be established using two elements: (a) Offer, i.e., statement of proposition to agree with the contract; and (b) Acceptance, i.e., statement of agreement from another party.

This agreement is then bound by a contract based on good will. In other words, a contract will only occur when both parties express their will explicitly. When they state their wills, a principle *pacta sunt servanda* applies, i.e, contract or agreement bound as a law for the involving parties. In other words, every will which is stated in the contract brings a legal consequence to the party, and when a party deviates from the agreed contract, the involved parties reserve a right to sue the deviating party to make them adhere to the mutually agreed contract.

Article 1338 paragraph (3) of the Civil Code asserts that a contract shall be executed in good faith. Ideally, this principle should be implemented from the early stage of the contract negotiation, during which each party negotiates their wills to be stated in the contract draft. It is important, considering that this principle reflects a condition in which involved parties believe in their decision to agree with the contract.

The analysis result revealed several inhibiting factors in the implementation of contract between PTPN V and KNES:

(a) Legal Factor. (1) Regarding the contract validity, article 1320 of the Civil code state that there are four elements of a contract validity: consent, capability, object, and admissible cause. In the contract between PTPN V and KNES, the consent did not serve as a standalone aspect, as it is inevitable with respect to the release of Right to Manage held by PTPN V to the community through the government. The consent was not related to the status and the object, but to the management of oil palm plantation using a partnership scheme. (2) Regarding the community land status, land certificate as a valid proof of ownership/ However, the community, as the land owner, do not hold a full control of their land because the certificate is stored by the regional

government. (c) The validity of data on certificate receivers, since there was no verification and validation of the related parties.

(b) Non legal factor. (1) Management's Economic Interest. Some people in KNES management wanted to gain more profit, thus inhibiting the implementation of good faith. (2) Third-party intervention. The third-party intervention also affected the contract implementation.

In this regard, the community ideally should understand in detail the contract with PTPN, and the notary should ensure the community's understanding before making a profit-sharing contract.²⁹

III. CONCLUSION

Oil Palm Plantation Management Contract between PTPN V and Koperasi Nenek Eno Senamanenek (KNES) was executed in three stages: Pre-contract, Contract, and Post-Contract. The analysis showed that the contract has not been implemented with good faith. Several inhibiting factors were noticed, which could be categorized into legal and nonlegal factors. The former was related to the contract validity, the land status, and the validity of beneficiary data due to the absence of verification and validation. The latter was related to the KNES management, single management applied by PTPN V, and KNES's internal problem.

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²⁹ Tamal, H. A., et al. "Analisis Hukum Pelaksanaan Perjanjian Bagi Hasil Kelapa Sawit Antara PT. Damai Jaya Lestari Dengan Masyarakat Pemilik Tanah di Kabupaten Kolaka." *Indonesian Journal of Legality of Law*, Vol. 1, No. 1, 2018, pp. 34-45, <http://localhost:8080/xmlui/handle/123456789/4192>.

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