LEGAL PROTECTION IN THE COOPERATION AGREEMENT FOR THE CEKING RICE TERRACE TOURISM OBJECT BETWEEN DESA ADAT TEGALALANG AND DESA ADAT KEDISAN, GIANYAR REGENCY, BALI

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Abstract

Tourism sector development contributes to regional income growth. One example is Gianyar Regency, which has various tourist destinations, including the Ceking Terrace Tourist Attraction. This destination is famous for its terraced views located in Kedisan Traditional Village, Tegallalang District. This research discusses the regulation and implementation of the profit-sharing agreement in the management of the Ceking Terrace Tourist Attraction. The method used is empirical legal research. The results of the study show that the legal regulation regarding the profit-sharing in the management of this tourist attraction is governed by the Gianyar Regency Regional Regulation No. 10 of 2013. This regulation stipulates that traditional villages and traditional institutions have rights within the profit-sharing system for managing this tourist attraction. The profit-sharing agreement includes the rights and obligations of the involved parties, including the management body of the Ceking Terrace Tourist Attraction, which is entitled to guarantees as per the agreed contract. The management body is also obligated to ensure the smooth operation of the management. Additionally, landowners are entitled to compensation for the rice fields used as tourist attractions, with the obligation to maintain its beauty in accordance with the agreement.

I. Introduction

Tourism is a complex sector because it is multidimensional and involves various sectors and institutions. From an economic perspective, tourism can have significant impacts, both direct and indirect, including on the environment. In Bali, the tourism sector has become a primary livelihood source for the community and a cornerstone of the economy, thus requiring strategic policies in its management to ensure sustainability and the welfare of the community and local government, such as in Gianyar Regency, which is one of the main tourist destinations in Bali. One of the famous tourist attractions in this area is the Ceking Rice Terrace, which has the main attraction of its beautiful terraced rice field views. This tourist attraction is located between Tegalalang Traditional Village and Kedisan Traditional Village, Gianyar Regency, Bali.

The main attraction of the Ceking Rice Terrace tourist site lies in the expansive and beautifully arranged terraced rice fields that follow the natural contours of the land. The lush green landscape, adorned with coconut trees and small streams, creates a tranquil and peaceful rural atmosphere. This natural beauty makes the Ceking Rice Terrace one of the most popular and Instagrammable photo spots.

In addition to its natural charm, this tourist attraction also offers a culinary experience through various food stalls and restaurants serving traditional Balinese dishes. Visitors can enjoy traditional Balinese cuisine while being treated to breathtaking views of the terraced rice fields, making Ceking Rice Terrace a complete destination for nature, culture, and culinary enthusiasts.

However, the location of the tourist attraction, which is situated at the border between villages, requires careful management to avoid potential conflicts of interest. The Ceking Terrace itself lies in the Kedisan Village area, while the best vantage points for enjoying the view are located on the western cliff, which falls within the Tegallalang Village area. This condition presents a challenge in managing and developing community-based tourism, necessitating active participation and empowerment of the local community.

In terms of management, infrastructure and facilities have received support from the local government. However, the main challenge faced is the effectiveness and efficiency in managing the tourist attraction. Therefore, the Gianyar Regency Government plays a crucial role in the development and promotion of tourism resources in Tegallalang District to ensure sustainable management that positively impacts the community.

The Gianyar Regency Regional Regulation on Cultural Tourism stipulates that traditional villages and traditional institutions have the right to develop rural tourism in accordance with the applicable provisions. Therefore, in its management, it is important to ensure that all elements of the Balinese community benefit, and no party is left behind or marginalized.

In its management, tourism plays a strategic role as an economic driver, not only in increasing tourist visits but also in developing the tourism sector that can foster a sense of nationalism and appreciate the wealth of Indonesia's arts and culture. The role of tourism can be seen from three main aspects, namely:

1. Economic Aspect – Including contributions to the country's foreign exchange and revenue from the tax sector.
2. International Cooperation Aspect – Tourism serves as a tool for cultural diplomacy and strengthens relations between nations.
3. Cultural Aspect – Introducing and preserving Indonesian culture on the international stage.

In the context of managing the Ceking Terrace tourist attraction, infrastructure and facilities have received significant support from the local government. However, the main challenge faced is the effectiveness and efficiency in managing the tourist attraction. Therefore, the local government plays an important role in the development and promotion of resources that serve as tourist attractions in Tegallalang District to ensure the sustainability and competitiveness of the tourism sector in the region.

The issues in managing the Ceking Rice Terrace tourist attraction are related to profit-sharing, as stated by the Bendesa Adat of Tegallalang. Therefore, the aim of this study is to analyze the regulation of profit-sharing agreements and their implementation in the management of the Ceking Rice Terrace tourist attraction.

Research Method

Based on the situational analysis that has been conducted, the details of the issues faced in the management of the Ceking Rice Terrace tourist attraction are as follows:

1. How is the arrangement of the profit-sharing agreement for the management of the Ceking Terrace Rice Field Tourist Attraction?
2. What is the form of implementation of the profit-sharing agreement in the management of the Ceking Terrace Rice Field Tourist Attraction in Kedisan Village, Tegallalang District?

2. Result and Discussion

The arrangement of the profit-sharing agreement for the management of the Ceking Terrace Rice Field Tourist Attraction.

Humans are social beings. Their existence is encapsulated in a social world that requires interaction with others. Interactions among humans give rise to dynamics that are, to some extent, related to the creation of agreements (contracts), whether they are economic agreements (in the field of commerce) or non-economic agreements, such as in the agreements related to the execution of a social or religious project.

Interactions that manifest in an agreement mutually agreed upon by two or more parties arise from the need to complement each other. The nature of humans is that they cannot live alone; they need the help or involvement of others to achieve their life goals. Primordially, humans have practiced simple agreements within the framework of fulfilling daily needs, such as the exchange of goods.

Contract law, as part of civil law, has experienced rapid development. One prominent aspect of the development of contract law is the doctrine of contract law. In the context of the scientific study of contract law, the doctrine of contract law can be distinguished into two: the classical doctrine and the contemporary doctrine. The classical doctrine of contract law places more emphasis on the normative dimension of contract law. The characteristic of the classical doctrine is the preservation of the status quo of rules and/or legal principles, even when the context of the case has changed. Meanwhile, the contemporary doctrine emphasizes efforts to uphold substantive justice, rather than getting trapped in the status quo of procedural justice. To uphold substantive justice, rules and/or legal principles that are considered restrictive are abandoned and replaced with the application of law that prioritizes a contextual approach. Here, the freedom of thought for

jurists and the parties involved is given its place, because the emphasis is on how to uphold substantive justice.

The most important issue in contract law protection is how to restore the rights of the parties who have been harmed. Addressing this is not as simple as it might seem. Many concepts circulate within contract law, each having its own context and implications, such as the concept of unlawful acts, default, force majeure, the principles of obligations, and so on.

Tourism is a complex sector because of its multidimensional nature. Tourism activities form a chain and are involved in many sectors and institutions. From an economic perspective, tourism can have both direct and indirect impacts on the environment. Bali's tourism industry has become a source of livelihood for the Balinese people and one of the pillars of the local economy, making strategic policies necessary for its management. One of the widely known tourist attractions is the Ceking Rice Terrace, which is renowned for its beauty and characteristic terraced rice fields. This tourist destination is located between Tegalalang Village and Kedisan Village in Gianyar Regency, Bali.

In its management, tourism plays a key role as an economic driver, not only in increasing tourist visits but also in fostering a sense of nationalism and appreciating Indonesia's rich art and culture. The Gianyar local government has a duty and role in the development and promotion of resources that attract tourists to the Tegallalang District. The challenges faced relate to the effectiveness and efficiency of managing tourist attractions.

The main issue in the management of the Ceking Rice Terrace tourist attraction is related to the profit-sharing arrangement as conveyed by the Bendesa Adat (Traditional Village Chief) of Tegalalang. Therefore, the goal of this study is to understand the arrangement of the profit-sharing agreement and the implementation of this agreement in managing the tourist attraction.

The main appeal of the Ceking Rice Terrace is the expansive terraced rice fields. These fields are arranged in layers following the natural contours, creating a lush and green landscape. This beauty makes it an attractive spot for photography. Additionally, there are various food stalls and restaurants offering traditional Balinese cuisine with a beautiful rice field backdrop. The location of this tourist attraction, situated on the border between villages, requires wisdom and cooperation in its management to avoid conflicts of interest. The Ceking Terrace, as the main attraction, is located in Kedisan Village, while the best viewpoint for viewing the terraced fields is on the western cliff, which is in Tegalalang Village. This situation poses a challenge in managing and developing community-based tourist attractions that require active participation and empowerment of the local community.

The profit-sharing arrangement in the management of this tourist attraction refers to various regulations, including the Regulation of the Head of Tegallalang Traditional Village No.005/VII/DPT/2011 regarding the arrangement of the Ceking area and the Gianyar Regency Regional Regulation Number 10 of 2013 concerning Cultural Tourism in Gianyar Regency. The principle of tourism development requires attention to the interests of the local community to ensure economic benefits for them. Law of the Republic of Indonesia Number 10 of 2009 on Tourism, Article 1, paragraph (3) emphasizes that tourism elements include geographical, historical, and cultural aspects, which need to be managed in an integrated manner with the roles of the government, business entities, and the community to support national development.

The Ceking Rice Terrace Tourist Attraction is one of Bali's leading tourist destinations, renowned for its beautiful terraced rice fields. The management of this tourist attraction involves two traditional villages: Tegalalang and Kedisan, which geographically have areas connected to the destination. To ensure fair and sustainable management, both traditional villages established a cooperation agreement that outlines the rights and obligations of each party. In implementing this agreement, various issues arise regarding legal protection, particularly in aspects of profit-sharing, management rights, and the resolution of potential disputes. Therefore, legal protection of this cooperation agreement becomes a crucial aspect to ensure the sustainability of management and the well-being of the local community.

The cooperation agreement for the management of this tourist attraction is based on several applicable legal regulations, including:

1. The Indonesian Civil Code, Article 1313, which defines a contract as a legal act performed by two or more parties who mutually bind themselves.
2. Law of the Republic of Indonesia No. 10 of 2009 on Tourism, which regulates the sustainable management of tourism.
3. Gianyar Regency Regional Regulation on Cultural Tourism, which grants authority to traditional villages in managing community-based tourism.
4. Balinese customary law, which serves as the foundation for the regulation and resolution of disputes within traditional communities.

These regulations provide the legal framework for the management and operation of the Ceking Rice Terrace tourist attraction, ensuring both legal certainty and the protection of local interests. In the creation of a contract, it must meet the essential elements, namely the presence of parties involved, agreement to form the contract, legal consequences arising from the contract, and a specific object. According to Arthur and Marianne, a contract is a legal act created to fulfill the conditions set by the mutual consent of two or more parties to create legal consequences for all parties involved. Meanwhile, according to Simanjuntak, the elements of an agreement include:

- The existence of parties entering into the agreement.
- The agreement from the parties involved.
- A clear objective to be achieved.
- A performance or obligation to be carried out by the parties.
- A specific form, whether verbal or written.
- The existence of specific terms that have been agreed upon.

These elements ensure that a contract is legally binding and enforceable, as they establish the framework for mutual obligations and rights. The cooperation agreement between Tegalalang Traditional Village and Kedisan Traditional Village regulates several important aspects, including:

1. Subjects and Objects of the Agreement
    a. Subjects: Tegalalang Traditional Village and Kedisan Traditional Village as the parties involved in the management of the tourist attraction.
    b. Object: The management and profit-sharing from the Ceking Rice Terrace tourist attraction, including entrance tickets, fees, and other tourist facilities.
2. Rights and Obligations of the Parties

a. Tegalalang Traditional Village:
    - Entitled to a share of the profits from tourism management.
    - Responsible for infrastructure and management within its area.
b. Kedisan Traditional Village:
    - Entitled to the revenue from the tourist destination located within its area.
    - Responsible for the maintenance of the terraced rice fields as the main attraction.

3. Profit-Sharing Mechanism
    a. Determined based on an agreed-upon percentage.
    b. Transparency in financial reporting and distribution of profits to both villages.

This agreement establishes a clear framework for collaboration between the two villages to ensure equitable distribution of benefits and responsibilities in managing the Ceking Rice Terrace as a shared tourist destination.

Form of Implementation of Profit Sharing Agreement in the Management of Ceking Terraces Tourism Object in Kedisan Village, Tegallalang District

The parties bound by the contract in a business, when they gain profit, will share the proceeds from that profit. The management carried out by the Tourism Management Agency for the Ceking Terrace tourist attraction is a form of cooperation between the management body and the rice field landowners from Kedisan Village. This profit-sharing agreement is regulated based on several legal provisions, including:

- Regulation of the Head of Tegallalang Village Pakraman Number 005/VII/DPT/2011 regarding the arrangement of the Ceking area, dated March 13, 2011.
- Regional Regulation of Bali Province Number 2 of 2012 concerning Cultural Tourism.
- Regional Regulation of Gianyar Regency Number 10 of 2013 concerning Cultural Tourism in Gianyar Regency.
- Regulation of the Regent of Gianyar Number 28 of 2017 concerning the registration of tourism businesses.

These legal provisions form the framework that governs the profit-sharing arrangement and ensures that the management of the Ceking Rice Terrace aligns with local regulations and promotes sustainable tourism development. In its implementation, the profit-sharing system applied considers fairness and balance between the managing party and the landowners. Some forms of implementing the profit-sharing agreement include:

1. Determination of Profit-Sharing Percentage
    a. The profits obtained from entrance tickets, land rental, and other tourist facilities are shared based on the percentage that has been agreed upon.
    b. The percentage division takes into account the contributions of each party, including land provision, operational management, and tourism promotion.
2. Payment Mechanism and Financial Reporting
    a. The managing party is obligated to provide regular financial reports to the landowners and the traditional village government.

b. Profit-sharing payments are made periodically, as agreed upon in the contract.

3. Responsibilities in Management and Maintenance
    a. The managing party is responsible for maintaining infrastructure, tourist facilities, and ensuring the cleanliness of the tourist attraction area.
    b. The landowners retain the right to supervise the use of their land to prevent excessive exploitation.
4. Dispute Resolution
    a. If a dispute arises in the profit-sharing arrangement, resolution is carried out through deliberation between the involved parties.
    b. If an agreement cannot be reached, the dispute may be resolved through legal channels in accordance with the applicable regulations.

These provisions ensure that the management of the Ceking Rice Terrace is carried out in a fair, transparent, and sustainable manner, with clear mechanisms for resolving any potential issues that may arise between the parties involved. The development of the Ceking tourist attraction must prioritize the interests of the local community, with the aim of providing opportunities, particularly in enhancing economic growth and development. According to Law of the Republic of Indonesia No. 10 of 2009 on Tourism, Article 1, paragraph (3), the elements of tourism include:

- Geographical elements, which provide natural beauty,
- Historical elements, which showcase historical relics,
- Cultural elements, which offer artistic expressions related to the region.

Furthermore, in Government Regulation No. 67 of 1996 on Tourism Management, it is stated that for the improvement and development of tourism to support national development, there needs to be an integrated role among the government, business entities, and the community in organizing tourism activities.

To manage tourism and utilize the national tourism potential, efforts are necessary to strengthen the identity of a nation. This includes fostering a connection between tourism development and local culture, history, and geography, while ensuring that the benefits are shared with the local community. The development strategy for the Ceking Rice Terrace should emphasize these aspects to create a sustainable and inclusive tourism industry.

The factors influencing the management agreement for the Ceking tourist attraction are those that encourage tourism, relaxation, and entertainment. According to Law of the Republic of Indonesia No. 10 of 2009 on Tourism, a tourist destination is defined as a geographical area within one or more administrative regions that contains tourism attractions and facilities. Tourism is a highly complex sector due to its multidimensional nature. In tourism, there are two types of objects and attractions: natural elements such as landscapes, flora, and fauna, and man-made attractions

The factors that become obstacles in the management of the Ceking Rice Terrace come from both internal and external factors. Internal factors include limited human resources, as many people are occupied with work and education, and some are reluctant to get involved in the management process. Additionally, another internal barrier is the existence of conflicts, such as differing perceptions among community members and conflicts of interest between the community members and the management of the tourist attraction. These conflicts hinder the effective implementation of tourism programs. External factors might include broader issues such as government policies,

market conditions, or environmental challenges that affect the long-term sustainability of the tourist destination. Addressing these internal and external challenges requires effective coordination, conflict resolution, and capacity-building efforts to ensure the success and sustainability of tourism in the Ceking Rice Terrace area.

3. Conclusion

The management of the Ceking Rice Terrace tourist attraction is carried out through a collaboration between the Ceking Rice Terrace Tourism Management Agency and the landowners of the rice field views from Kedisan Village. This management is established through Regulation of the Head of Tegallalang Village Pakraman Number 005/VII/DPT/2011 regarding the arrangement of the Ceking area on July 13, 2011, and is guided by Regional Regulation of Gianyar Regency Number regarding Cultural Tourism in Gianyar Regency, Article 26, paragraph (2), which states that village pakraman and traditional institutions have the right to develop rural tourism in accordance with applicable laws and regulations. However, not all landowners with rice field views are involved in the profit-sharing, which creates issues in the management process.

The implementation of the profit-sharing agreement in managing the Ceking Rice Terrace is influenced by both internal and external barriers. The rights of the tourism management agency for Ceking Terrace include guarantees from the contract that has been agreed upon, while their obligations are to ensure that the management runs smoothly and effectively. Landowners have the right to compensation for the use of their rice fields as part of the tourism view and are responsible for maintaining the beauty of the rice fields in accordance with the terms of the agreement. This division of rights and obligations helps regulate the management process, but the issue of involvement of all landowners and equitable distribution of benefits remains a challenge for the long-term sustainability of the tourism destination.

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