

DETERMINATION OF LAND PROCUREMENT COMPENSATION FOR PUBLIC INTEREST IN JUSTICE PERSPECTIVE

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ABSTRACT

This research was conducted to examine the justice that exists in the provision of compensation in the implementation of land acquisition for the public interest in Indonesia based on Law NO. 2 of 2012. The research method that will be used in this study is a normative juridical research method with the concept of statutory regulations. The implementation of compensation for land acquisition in the public interest has not fully fulfilled the aspect of justice because there are still problems in the provision of compensation, besides that it has not been able to improve the standard of living of the recipients of compensation after the payment of compensation.

Keywords: Perspective of Justice, Land Acquisition, Compensation, Justice.

INTRODUCTION

In the process of implementing land acquisition planning, it involves all stakeholders and stakeholders and, in the implementation, process must pay attention to the balance of development interests and the balance of community interests. In its implementation, the implementation is carried out by receive compensation more than worth it given to communities affected by land acquisition or parties entitled to compensation, this has been explained in Article 1 paragraph (2) of Law Number 2 of 2012.

According to Rahayu Subekti (2016: 377), the implementation of national development really requires a lot of land for development in various publicity facilities. Land acquisition can be done by pressing through regulation. Government can free the land from owner even though the owner does not wish to sell the land. However, based on the principle of justice, even though the land acquisition is coercive, the compensation given to the land owner must not result in a decrease in the standard of living before the land acquisition is carried out.

Based on Article 1 paragraph (10) of Law no. 2 of 2012 concerning Land Procurement for Development in the Public Interest, an explanation of compensation to the land owner in order to make his life prosperous. The rightful party is the party who owns or controls the land object. Therefore, land naturally has a social function and has a guarantee for the rights of the individual, which is binding on the land at the time of the implementation of the provision of compensation which is used for the public interest. The meaning of the word "proper and fair compensation" is that the provision of compensation must be able to improve the welfare of the people's lives which are much better than before this land acquisition.

Article 16 of the UUPA is the basis for a person in controlling the rights to the land he owns, in its use it must remember the social function of the land. In the sense between the use of land for self and public interest must go hand in hand. If the land owned is to be used to meet public needs, appropriate compensation must also be given to those who have rights to the land. This is in accordance with Article 1 paragraph (2) of the Land Procurement Law which defines land procurement as an activity to provide land by providing appropriate and fair compensation to the entitled party. The words "decent" and "fair" in the definition reflect the existence of a new paradigm that guarantees and respects those who have the right.

The sentence "entitled party" will provide a solution to the problems that arise in the release of land, including all matters related to the rights owned by the owner or ruler of the land. So that it is not necessarily the right of the land owner, it may belong to the tenant, the user, the manager (Rahmat Ramadhani, 2019: 180).

Article 1 paragraph (2) also states that the basic value of land compensation uses the NJOP calculation. so seen from this interpretation it will reduce the value of land on certain objects. From a sociological perspective, the holder of land rights is entitled to compensation for the transfer profession due to the release of land as a livelihood. Micro entrepreneurs such as satay traders, angkringan traders and so on who are in development areas must free their land and give up land for their livelihoods only for the public interest. From a philosophical aspect related to law, justice is one of the the most prominent problem. Because it is related to the calculation of non-physical losses, the problem is how to formulate a measuring tool for non-physical compensation due to sociological and philosophical losses that are abstract. So in this case the benchmarks are justice, comfort and happiness so that losses are sociological and philosophical The fiss caused by the release of land will be compensated in a new place (Bernhad Limbong, 2011: 369-376).

From the principles above, in its implementation it must be commensurate with the principles of the nation and state. In the process of providing this compensation based on the principle that is most beneficial to the community. One example of land acquisition for the public interest carried out in Tuban is the construction of an oil refinery owned by Pertamina Rosneft Processing and Petrochemical (PRPP). This project is located in Tuban, precisely in Wadung Village, Sumber Geneng Village, Mentoso Village, Rawasan Village, Sumurgeneng Village, Beji Village, and Kaliuntu Village. The Oil Refinery Development process carried out by Pertamina Rosneft was hampered due to protests from Wadung Village residents who felt that the compensation they received was not balanced with what had been promised by PT. Pertamina Rosneft. Wadung Village is included in the Ring 1 Category affected by the PRPP Project. The majority of Wadung Village residents only have houses and plots of land and the land acquisition or compensation money is only enough to buy land and rebuild houses. In contrast to Wadung Village, in Mentoso, Rawasan, Sumurgeneng, Beji, and Kaliuntu villages, residents affected by the PRPP project have received compensation for agricultural land and houses. Meanwhile in the village of Sumbergeneng, the lucky community has been given a job by the Grass

Root Refinery (GRR) Tuban. <https://finance.detik.com/> (January 25, 2022), Besides this, there are several residents of Sleman Regency who assess the price set as unilateral and tends to harm the community and does not comply with price standards. In this case, the determination of the compensation that has been implemented by the government to land owners is not in accordance with the price it should be, residents also demand the government to be able to open prices transparently to all land owners. <https://jogjapolitan.harianjogja.com/> (10 December 2020).

RESEARCH METHOD

The approach method used in the preparation of this article is normative juridical research (normative legal research method). The normative juridical research method is library law research which is carried out by examining library materials or secondary data (Bambang Sunggono, 2003,13).

By using deductive thinking methods or ways of thinking in drawing conclusions drawn from something general in nature that has been proven that he is right and the conclusion is intended for something specific (Sedarmayanti & Syarifudin Hidayat, 23). Thus, the object analyzed with a qualitative approach is a research method that refers to the legal norms contained in the legislation (Soerjono Seokanto and Sri Mamudji, 14).

RESULTS AND DISCUSSION

According to Imam Koeswahyono, legal actions taken by the government to obtain land for certain interests by providing compensation to the land owner according to certain procedures and nominal amounts. (Imam Koeswahyono, Article Tracing the Constitutional Basis of Land Acquisition for Development Purposes for the Public, 2008).

Providing compensation in land acquisition activities is something very important. Compensation according to the Land Procurement Law is a proper and fair compensation to the entitled party in the land acquisition process. Non-physical losses include the loss of jobs, business fields, sources of income, other sources of income which have an impact on decreasing a person's level of welfare (Sumardjono, 2007, 103).

In land acquisition for the public interest, appropriate and fair compensation must be provided, this is intended so that the owner of land rights can continue to live a better life after the land acquisition. Elucidation of Article 2 letter b of Law Number 2 of 2012 explains what is meant by justice is "providing a guarantee of proper compensation to the entitled party in the land acquisition process so that they get the opportunity to be able to carry out a better life".

The provision of compensation should also be in a non-physical form, namely returning to the socio-economic conditions as before at the location to be occupied later. The compensation should not be detrimental to the holder of land rights, but increase their standard of living to be prosperous and able to meet their needs the same as before the development activities (Maria S. W. Sumardjono. 2008).

Fair in the provision of land, among others (Sahnan, M Yazid, Mukasir, 2015: 423):

- a. Socio-economic landowners will increase or at least be the same as before the project.
- b. legal protection must also be received by those who need land according to the plan and the land designation;
- c. Justice must be accepted by all interested parties and be realized in the form of regulations.

In addition to the legislation related to compensation, the appraiser will assess the following: Land, Buildings, Plants, other losses that can be assessed, Objects related to land; and/or space above and below the ground (Compensation that will be given in land acquisition uses a calculation basis, namely in the assessment it will be carried out by an Appraiser to conduct an assessment of the object of land acquisition.

Accountability must be carried out by an appraiser who carries out his duties and, in the event of a violation, he will be subject to sanctions either administratively or in accordance with the legislation, in carrying out his duties an appraiser carries out parcels per plot of land in accordance with what must be compensated.

From the above provisions it is clear that compensation for non-physical factors does not take into account. The calculation of compensation for physical factors is as follows:

1. To estimate the amount of loss using the land price contained in the NJOP or market price by referring to the selling value of the tax object as determined by the appraisal agency. and can be guided by position with a variable that is adjusted to the layout.
2. Difficulty faced in calculating compensation by the agency/assessment team and the land acquisition committee team of the city and district governments is the difference between the market price and the price set in the NJOP. In various cases, land prices often occur as a result of deliberations between the land acquisition committee team who ask for a higher price than the NJOP.

The resettlement program needs to be improved, not just a form of loss that should be a completely new form of settlement to continue life in the new location. So it must be complete, namely the money and settlement package. In the future, in resettlement, resettlement should be carried out, which so far is usually in the form of money.

CONCLUSION

The Land Procurement Law has not fully fulfilled the aspect of justice because there are still problems in the provision of compensation, it has not fully fulfilled the aspect of justice because there are still problems in the provision of compensation, besides that it has not been able to improve the standard of living of the recipient of compensation after the payment of compensation. The importance/necessity of resettlement is mandatory and it is thought that there is a community empowerment program that can guide them in carrying out their lives in the future, even though there are various options, often the only choice is money.

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