

Mechanism Of Paying Compensation In Land Acquisition To Land Owners

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Abstract.

The land issue is an issue that affects the most basic rights of the people. Because it has a social function other than economic value, so that individual interests on land are sacrificed for common purposes. The purpose of this study is to analyze the payment of compensation for land acquisition in cash and in kind, to identify and analyze the land acquisition process based on Law no. 2 of 2012, as well as explaining the concept and its provisions. To investigate and analyze. This is done by searching for relevant regulations and literature through the search for library materials as a starting material for investigation, using normative legal procedures for problem analysis. Depending on the issue being investigated, the matter will be carried out to analyze the legal regulations in the area of implementing the release of property rights. The results of the examination show that the payment of compensation for the purchase of land can be in the form of cash or non-cash. Change of money, land, resettlement. The land acquisition process that is being developed based on Law no. 2 of 2012 through three stages: The process of planning, compiling and implementing remuneration, concepts and regulations in land acquisition must be carried out in accordance with laws and regulations so that it is fair and does not harm the government or land owners.

Keywords: Legal Protection; Tradition Knowledge; Right of Ownership

I. INTRODUCTION

Land is an important need for people who have a strategic role in their lives because it has a strategic function either as a joint asset or a government asset. For example, land helps to integrate the social unity of the Indonesian people into national life as a social benefit. When talking about land as state property, land serves as one of the most important development capitals [1]. Land is a gift of God is a source of wealth, prosperity, and people's needs, therefore land is the only human need for protection, therefore agriculture, business, and housing, management or land. Ownership is increasingly empowered with various legal efforts to maintain the sustainability and tranquility of the ownership. Land has a very strategic function, both as a natural resource and as an increase in development. Availability of land is relatively constant and demand for land continues to increase, but proper and solid land management, ownership and use are to achieve the goals of land management and use. For the welfare of the people [2]. Acquiring land for the public by giving up land rights can be problematic. While the need for land is increasing to support the implementation of development, the availability of land is very limited. This means that adding one will reduce the supply of land for the other. This is because the people's need for land, both as a source of demand generation and as a factor of production, will continue to increase even though the growth of the Indonesian people stops at zero. Rights to land in Indonesia are explained and regulated in the LoGA, especially Article no. 6 which states: More specifically, the UUPA statement may not use land only for its own interests, and its use and benefits are also for public and national interests, so that the benefit of the people and individual interests are 1. This is considered a single duality of two balances [3].

AP. Perlindungan is of the opinion that "all land rights have a social function, but this does not mean that individual interests are completely restrained by public needs". Regarding the definition of public interest, the Decree of the Director General of Agriculture No. 12 108 12 1995 states: "Public needs are the needs of the people and the nation. By following national security and the archipelago's insight that focuses on social, political, psychological, and social aspects, Defense and Security is guided by the principles of development [4]. In addition, Article 33 of the 1945 Constitution of the Republic of Indonesia clearly states

that all natural resources contained therein are controlled by the Archipelago and are fully utilized for the welfare of the people. This obviously involves a very basic national obligation. This means that the use and development of land can bring complete prosperity to the people of Indonesia. that all land laws require certainty regarding the subject matter, subject matter and exercise of jurisdiction [5] .Therefore, the state has the right to control the state as a regulatory body and administrator. The state also has the authority to coordinate all matters relating to the use, provision and policy of land. The state also has the authority to determine the management of natural resources and regulate legal status. The position of the state in the land sector is as a regulator of the management and use of common property by the state and its people [6].Based on the state's special disposal rights, the state is free to regulate the natural resources contained in it, in accordance with the accompanying regulations and guidelines in the context of controlling the law. For the realization of the sustainability of the nation's life.

The community is actually aware that the implementation of the relinquishment of land allocation is for the purpose of development and for the purposes of the Commonwealth to enjoy the consequences, so some people surrender the state and support the implementation of development in order to achieve the development goal, namely to create a prosperous society both physically and mentally, but the local people do not want the government took the land freely [7] .Land acquisition is very important to support the realization of public facilities, and if the government itself does not own the land to carry out development, then the choice is to be owned or owned by either individuals or land-owned organizations. The acquisition of land handed over for the common interest by the state is carried out by relinquishing or freeing land rights. In addition, property is obtained by buying, selling, bartering, or other agreed methods [7] .Article 1 of Law. Number 2 of 2012 concerning Land Acquisition for Development of Common Interests states that the acquisition of land rights is an activity to terminate the legal relationship between the heirs and the state through a real estate agent. the destruction/dissolution of a land right is the termination of the legal requirements of an individual with his land with the payment of compensation whose value is based on the consideration of the parties. Seizure of land rights is a mandatory transfer of someone's land due to the condition of the land, resulting in the cancellation of land rights without anyone being harmed or negligent in fulfilling their legal obligations [8]. In many cases, the taking, acquisition, or abandonment of rights to land always leads to goals and has a significant impact on community stability. Disagreements between landowners/landowners and the responsible authorities claiming land for development projects have created various tensions in the community. There are also problems due to unclear legal circumstances. The same applies to the value and amount of compensation paid to the affected people [9] .

II. METHODS

The author uses normative legal methods to obtain materials obtained for the preparation and discussion of problems in this study. That is, problem analysis by looking at library materials or secondary data as a starting material for research through regulatory searches. The literature related to the problem of analyzing the laws and regulations in the field of enforcing land rights grants on the problems studied, the research method used is a legislative approach by using legal materials sourced from Law no. 5 of 1960 concerning Basic Regulations on Agricultural Principles and Law no. 2 of 2012 concerning Land Acquisition for Development for the Common Interest (Legislative Approach). Several sites on the internet you can trust to provide accurate and concise information, as well as more sites. In this study, qualitative analysis was used for both primary and secondary data. The analysis carried out is qualitative. It does not emphasize the amount of data. But qualitatively. The data collected were researched, organized, categorized, interpreted, presented in a systematic explanatory model, and the relationships between the various forms of data obtained were explained and investigated for all major problems.

III. RESULT AND DISCUSSION

The term land acquisition is the original term according to the law. In the decision of the Minister of Home Affairs, this purpose is known as the release of land. Land acquisition number Ba by the Ministry of Home Affairs. 12 108 1275 is an activity that aims to actually or indirectly cancel the existing legal

relationship with the owner of the property right by submitting compensation to the heirs of the property [7]. In accordance with Law no. 2 of 2012 concerning Land Procurement for Development for Common Purposes, land acquisition is the implementation of land provision by submitting fair and impartial compensation to the owner. This means that the acquisition of land will only occur in exchange for compensation to the owner of the land acquired for development in the public interest. The basic problem in the land sector is that the supply of land is always limited, the community's need for land continues to grow. Over time, the need for land is increasing due to the increasing number of people who need housing, and the need for infrastructure development that requires land as a place of activity has increased government development activities [10]. In Article 55/1993, Articles 1 and 1 of the Presidential Decree, land acquisition is defined as follows: 36/2005, namely, "Land acquisition is an activity aimed at obtaining land through compensation for those who have given or left land, buildings, equipment, relating to property, or taking land rights [11]. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia becomes the beginning of a legal relationship between land and land subjects, in this case the state depends on its prosperity to the people. Article 6 of the Agrarian Law states that all land rights have a common function.

The use of property rights must also take into account the interests of the land owner, in the sense that the land is useful not only for the land owner but also for other Indonesians. The legal order for land acquisition is easier to understand if it is in accordance with the concept of basic national rights. The concept of national law is taken from common law, which is adopted in the form of the concept of a religious community that incorporates elements of cohesion as well as allows individuals to have land rights. Article 9 of Law no. 2 of 2012 states that "land acquisition for the public interest is carried out by providing fair and impartial compensation". Compensation based on Article 2 Article 1 (10) of the 2012 Law states that "compensation is a fair and equitable compensation to parties entitled to the land acquisition process". According to Government Regulation No. 71 of 2012, "Compensation is a fair and equitable reward for legitimate parties in land acquisition activities". The meaning of compensation (damage) is the actual loss (feotelijknadeel) due to a breach of promise, and the amount is determined by comparing the financial position after the breach of promise with the financial position without any breach of promise. In the UUPA, land compensation is in accordance with Article 18 and states: Fair compensation in the manner required by law Compensation has become a legal concept, so the concept of compensation is money and other goods for those who feel that their property has been harmed because it was stolen and used for the benefit of the people. In civil law, the legal basis for compensation is found in sections 1244, 1245, and 1246 BGB, but property-related compensation issues in agricultural law are compensation under civil law sections 1244, 1245, and 1246 (Schadevergoeding). .. Elements of death compensation are costs, losses, and interest.

In Article 36 of Law NO. 2 of 2012 states that the provision of compensation can be divided into the following types:

1. Cash (Money)

One form of compensation is in the form of money. This form is common in the provision of compensation for land acquisition. Before paying monetary compensation, an agreement must be reached between the Land Acquisition Commission (P2T) and the land owner regarding the type and amount of compensation. The method of payment can be made by mutual agreement, either through compensation through banking services or cash payments to beneficiaries. If the bank makes a payment, it must open a savings account in the name of the person entitled to compensation at the request of the chairman of the Real Estate Acquisition Commission.

2. Compensation In The Form Of Non-Cash

A. Compensation In Soil Type

Compensation in the form of area exchange will be provided by the institution requiring space, upon written request from the P2T reader. The placement of alternative parcels is based on a consultant contract whose value is in accordance with the compensation value if it is in the form of money. The Entity responsible for providing an exchange room in the form of an exchange room is an institution that requires space after receiving a written request from the P2T chairman. For reasons of legal certainty, this exchange in the form of an exchange plot is limited to a maximum of 5 months. On the other hand, the transfer of

rights to people as required by the owner does not have to wait for alternative land to be used, so that the transfer of rights can be carried out before alternative land is available. Alternative The waiver of alternative land types must be mutually excluded so that the owner relinquishes his rights to P2T or vice versa by submitting a letter from the owner to the owner who is applying for compensation. The handover protocol must be included in each delivery process.

b. Forms Of Resettlement

Resettlement means providing beneficiaries with alternative land based on an agreement on land acquisition procedures. Alternatives in the form of resettlement (resettlement) or resettlement offers are carried out by entities that need land at the request of the P2T Chair. Land use authorities must arrange for resettlement within at least one year after the land acquisition committee / land acquisition implementer decides on the form of compensation. The waiver of a qualified person is carried out with the approval of the premises. Once confirmed by the rights holder, the Chairperson of the P2T, it will take place without waiting for the completion of the resettlement construction agreed upon by the agency requiring the state to hand over the resettlement to the rightful party. All processes in this activity must be recorded in the delivery log and documented in photos/videos.

c. In The Form Of Share Ownership

Asri in "Share of Share Ownership Award" is the participation of shares in a common purpose whose development activities for management are based on the agreement of the parties. The provision of compensation in the form of share ownership is based on the agreement of the owner who meets the requirements with the BUMN in the form of a joint company and has special authority from the government within a period of no later than three months after the decision. In the form of compensation by P2T, if the settlement in the form of share ownership is agreed, the heirs waive their rights. In the process of giving compensation in the form of share ownership and the granting of share ownership, it is entrusted to the bank by the relevant agency and is carried out simultaneously with the deposit of funds. The reward in the form of shares is evidenced by a delivery receipt in the form of a receipt.

IV. CONCLUSION

Land Acquisition Compensation Since the enactment of Law NO. 2 of 2012 for common purposes, the amount of Compensation has been gradually increased by the government for land, surface and underground areas, buildings, facilities and land-related goods. And/or losses that can be predicted, the amount of compensation on the findings of the appraiser becomes the initial consideration in determining the Reward Value. Compensation can be in the form of cash, alternative land, initial settlement or share ownership. Or other forms mutually agreed upon by the parties, if an agreement on the value and amount of compensation is not reached, the heirs may disapprove to the court within fourteen working days after the discussion of the compensation decision. The district court determines the amount of compensation for a maximum of thirty working days upon receipt of the objection. In exchange for determining the amount of compensation, affected persons can submit expert reports to hear their reports in comparison to compensation evaluation.

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