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Assessment Professional Functions in Land Procurement of National Strategic Projects in Realizing Legal Certainty Principle

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ABSTRACT

This study also aims to analyze the application and completion of consignment in land acquisition for general interests in terms of the perspective of judicial decisions. The data collection procedures used in this study were questionnaires, observations, interviews, documentation. Data analysis technique in this study use qualitative analysis that is inductive, which is an analysis based on the data obtained, then a certain relationship pattern is developed. From various studies, this research concludes that the trigger for conflicts related to land acquisition often occurs because the value of compensation / compensation given to affected communities is not given properly and fairly, lacks transparency and harms the community. In addition to problems related to injustice, it is stated that some land acquisitions carried out in Indonesia have not fully involved community participation, lack of counseling/socialization processes and meaningful public consultations on land acquisition plans carried out by parties who need land to the community, have not compiled land acquisition planning documents that are studied in depth in accordance with the environmental, socio-economic conditions of the community and the lack of involvement of parties/agencies that have authority related to land acquisition since the initial planning process.

Keywords

Land Procurement, Land Appraiser, Land Law

INTRODUCTION

The objectives of economic development are to increase the availability and expand the distribution of basic necessities, increase living standards, and expand economic and social options for all levels of society. Success in regional economic development can be seen from how much the growth of Gross Regional Domestic Product (GDP). Economic growth of a country can be done by encouraging increased growth in the industrial sector. This is because industrialization is the engine driving economic growth (Mogi, 2021a)

In general, development economics has a function in creating efforts to improve the standard of living of people in developing countries. As for the community or students, development economics serves as a science in understanding the economic problems of developing countries in the world.

The existence of a Land Appraisal institution as a party in charge of assessing land to be used for public interest greatly determines the value of compensation that will be received by land rights holders. Moreover, the assessment carried out will be used as a basis for deliberation to determine the value of compensation (Dinda & Sudarwanto, 2022a).

By land really prioritizes the principles of humanity, democracy and justice which reflect the balance of rights between land rights holders and institutions that need land. The value of compensation is very important for land rights holders because land is a resource that in addition to having economic value as well as social, political, even for the people of Indonesia, land also has a relationship with religious values. For most communities, land is where they live and their source of livelihood, so expropriation of their land by others must consider the economic and social impacts it causes. A farmer whose livelihood depends on the land

will certainly lose his livelihood if his arable land is to be expropriated and it has the potential to greatly reduce the welfare of the farmer and his family.

In addition, normatively, the constitution guarantees protection to holders of land rights on the land they own as affirmed in Article 28 H paragraph (4) of the Constitution of the Republic of Indonesia Year 1945 (UUD Year 1945) that everyone has the right to have private property rights and these property rights must not be taken over arbitrarily by anyone (Maulana & Jamhir, 2019).

The meaning of the above Article indicates that the provision is reinforced by Article 28 J paragraph (2) of the 1945 Constitution that in exercising their rights and freedoms everyone must be subject to restrictions established by law for the sole purpose of ensuring recognition and respect for the rights and freedoms of others and to meet just demands in accordance with moral considerations, religious values, security, and law order in a democratic society. The existence of Land Valuers for land rights holders whose land will be used as development projects for the public interest is very important because under certain conditions and rights holders must hand over their land to the Government, on the grounds that the public interest is the interest of the nation, state, and community which must be realized by the government and used as much as possible for the prosperity of the people (Sari et al., 2022a).

The term "Land Acquisition" was first juridically known since the issuance of Presidential Decree (Keppres) Number 55 of 1993 concerning Land Acquisition for the implementation of Development in the Public Interest. Land acquisition arrangements in Article 1 point 2 of Law Number 2

The 2012 Law on Land Acquisition for Development in the Public Interest states that "Land acquisition is the activity of providing land by giving decent and fair losses to the rightful party". Thus, it can be concluded that, land acquisition is an activity of releasing land rights by providing compensation whose use must be in the public interest (Cintami, 2022a; Kalicya & Djajaputra, 2020a).

However, the reality of life in the community of land acquisition for development for public interest causes turmoil in practice, where there is coercion from parties, both the government who set prices unilaterally and land owners demand prices that are considered unreasonable, while the existing legal instruments have not been able to accommodate these two different interests. Finally, it happened by coercion and intimidation of the community in land acquisition.

Furthermore, the appraiser profession provides professional services in determining the fair value of the company's property (assets). The appraiser determines how much the value of the issuer's wealth and this will affect the determination of the price of shares or bonds to be issued by the issuer in the plan to go public (Suntoro, 2019).

Before the development of assessment agencies, assessments were carried out by tax agencies by calculating the index. However, because the purpose of emissions requires more completeness of the reassessment of the assets of companies that will go public rather than just tax calculations, then appraisers are always required to safeguard the interests of public shareholders and valuation institutions are considered more needed in this case.

The main function of the Appraisal profession is as a party who gains the trust of the public to provide a fair opinion on various transactions. These economic transactions include land expropriation for public interest, planned participation/share ownership transactions, preparation of company balance sheets, auctions, disputes over assets, bank guarantees, and 2015, and Number 148 of 2015, as well as Presidential Decree Number 62 of 2018 and Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN respectively Number 5 of 2012, Number 2 of 2013, Number 6 of 2015, Number 6 of 2020 and other technical laws and regulations, such as Presidential Decree Number 32 of 2020 Jo. Presidential Regulation Number 66 of 2020.

With the principle of impartial implementation of duties, the Appraiser is expected to meet the demands of a sense of fairness in various transactions. The main requirement that can give the Appraisal profession the right to life in order to get recognition from the community is the fulfillment of Appraisers who have special expertise, integrity, honesty and objectivity in carrying out their profession (Mogi, 2021b). The existence of Appraisers is currently spread in various sectors, not only limited to the private sector, but also to government institutions. The needs and role of Assessors in the government sector are experiencing rapid development.

New Paradigm in the Concept of Land Acquisition for Public Interest The current statutory provisions regarding the revocation or exemption of land rights for public interest need to be reformulated in accordance with the social values that develop today, among others as follows: first, a concrete definition of the definition of "public interest" according to the current laws and regulations. The definition of public interest is formulated abstractly, namely the interests of the nation and state and / or the interests of the wider community, the interests of the people and the interests of development (Dinda & Sudarwanto, 2022b). Presidential Decree No.55 of 1993 public interest is formulated as the interest of all levels of society.

Then the notion of public interest is limited to development interests that are not for commercial purposes. This limitation on the notion of public interest is very abstract, giving rise to different interpretations

in society. As a result, there is "legal uncertainty" and leads to the emergence of conflicts in society. Development activities for public interest facilities include ports, airports, telecommunications, General Hospitals, which have now changed the construction of commercial public facilities. Formerly government property has now been privatized, of course, land acquisition for the project cannot be done by revocation, or release by compensation, but it must be emphasized that land acquisition must be done by transferring rights by buying and selling. Second, the current regulation only stipulates that compensation is limited to land-owning communities or land-cultivators, meaning their heirs. This provision does not provide protection for non-owner community residents, such as tenants or people who work the land, who control and occupy and who use the land. In addition, customary rights that are released for public interest, indigenous peoples have not been protected and have not received contributions from the development, as well as recognition in exchange for income, utilization and control of their customary rights that have been used for development.

Third, the implementation of deliberations is not carried out in accordance with the flow and proper. Liberated communities who are in a weak position are not accompanied by NGOs as institutions that assist communities in determining the form and amount of compensation that is appropriate to be given to liberated communities. Changes in policy regarding the implementation of deliberations and determining the form and amount of compensation, in future laws and regulations must be found the involvement of communities and NGOs, from the beginning to the end of liberation activities. Deliberation to reach an agreement, must be carried out with the right legislation, listen to each other and accept each other's opinions, based on flow and appropriate, based on voluntary between the parties without any psychological pressure that can hinder the deliberation process. One way is by reaffirming local wisdom. In other words, re-enforcing customary provisions related to land.

Objective assessments are also one of the factors that must be considered in order to create adequate legal guarantees and protections for investors. Every investor in his investment plan must obtain the truth of the information published to the speed, accuracy, accuracy, and completeness of information published by both issuers and parties involved in the capital market, in this case, especially the valuation profession (Rongiyati, 2012). In accordance with the problems identified stated above, this study has the following objectives: Analyze how legal protection of individual rights in land acquisition for public interest. In addition this study describes the meaning of consignment in land acquisition for public interest, so that an overview of the meaning of consignment from private law shifts to public law. This study also aims to analyze the application and completion of consignment in land acquisition for general interests in terms of the perspective of judicial decisions.

METHODS

Data collection methods are a very important part of the research itself. The data collection procedures used in this study were questionnaires, observations, interviews, documentation. Data analysis techniques in this study use qualitative analysis that is inductive, which is an analysis based on the data obtained, then a certain relationship pattern is developed.

RESULTS

Various developments carried out to support the public interest, development to prioritize increased economic growth and industrial development, or business expansion are certainly inseparable from the ground. To meet these needs, land acquisition efforts are important to be implemented and this condition certainly cannot be avoided by any country (Sari et al., 2022b). Several cases explain that infrastructure development carried out in various regions for public interest often experiences obstacles in the land acquisition stage (Kalicya & Djajaputra, 2020b; Rongiyati, 2016)

This condition is because the land used for development is land that has mostly been used/used, controlled and owned by individuals, customary law communities or legal entities, where the land was previously used as settlements/residences, places of worship, community life infrastructure or as the main source of community livelihood.

Various studies show that the trigger for conflicts related to land acquisition often occurs because the value of compensation/compensation given to affected communities is not given properly and fairly, lacks transparency and harms the community ((Cintami, 2022b). In addition to problems related to injustice, (Wijayanti, 2013) stated that some land acquisitions carried out in Indonesia have not fully involved community participation, lack of counseling/socialization processes and meaningful public consultations on land acquisition plans carried out by parties who need land to the community, have not compiled land acquisition planning documents that are studied in depth in accordance with environmental conditions, socio-economic community and lack of involvement of parties/agencies that have authority related to land acquisition since the initial planning process. The uncertainty regarding the condition of community resettlement and what the sustainability of community life after land acquisition is also a dominant factor in the emergence of rejection in land acquisition. In addition, the implementation of land acquisition projects as a national strategic agenda

is also limited by time due to development targets and budgeting systems that are not prepared properly, making the stages / processes in land acquisition seem rushed so that many stages are not carried out optimally.

The condition of haste and the perspective of land acquisition, which often only views land acquisition as a formal physical-legal aspect, has implications for the neglect of socio-economic, environmental aspects, as well as the neglect of intangible aspects and community rights that should become a unity in the land acquisition process (ISNANDAR & SiT, 2021)

Some land acquisition practices that have been implemented, especially in rural areas, often result in the marginalization of farmers, laborers, ranchers, farmers, fishermen in rural areas. This is because most Indonesian people are agrarian people who in fact depend on the land. In addition, in general, it can be said that most Indonesian people have a relationship with land that is religious-cosmic, namely a relationship that highlights collective mastery and there is still a religious pattern related to belief in magical things. The religiomagic-raisin relationship between the community and the land is marked by traditional ceremonies and traditional traditions that are still upheld by the community (Adrian Sutedi, 2023). Meanwhile, for societies that tend to change towards industrial society, the relationship between humans and land is individualist and oriented towards the economy.

The impact of land acquisition on the condition of agrarian communities that only depend on the main source of land often results in decreased income, loss of community jobs, decreased living standards of rural farming communities, even the worst impact that occurs is the increase in rural poverty (Sumardjono, 2006). The helplessness of farming communities affected by land acquisition certainly requires special policies, so that after land acquisition people are able to obtain a life that is at least the same as the previous conditions or are expected to have a better life expectancy.

When the Indonesian Government wants to use land for development, of course, there are sacrifices of human rights including the rights of people who have previously lived safely and comfortably on land must be sacrificed, the livelihoods and sources of livelihood of the community, especially those who depend on the agrarian sector must be uprooted, besides that the impact that is difficult to replace is the socio-cultural values that have been deeply rooted in people's lives during Many years have to be moved. When viewed from a juridical aspect, the government actually holds the principles of "rule of law", where human rights must be respected, but if this land acquisition is not carried out, development will certainly stop and economic growth will experience a slowdown. These two things are like two sides of an inseparable coin, in this case, the responsibility of the government / agency that needs land is to formulate, implement policies and orient land acquisition programs by prioritizing the sustainability of community life and protecting the human rights of the community.

Development promoted by the government in this era should not only be oriented towards macroeconomic growth alone which only focuses on increasing Gross Domestic Product (GDP) and Gross Regional Domestic Product (GDP) only (Raafi'I, 2018). Economic growth plays an important role in terms of improving people's living standards, but when what is pursued is only limited to macroeconomic development, it will be very dangerous to high inequality and injustice, due to the uneven distribution of economic sectors. For example, a study conducted (ISNANDAR & SiT, 2021) shows that in East Java Province, economic growth is growing quite rapidly, but after being studied, the increasing economic growth is also followed by high income inequality between districts/cities indicated by the Williamson index (0.5).

This condition shows that economic growth is only enjoyed by certain regions/groups. Development oriented to this economic sector can certainly also have an impact on environmental damage, decreasing environmental carrying capacity and regional capacity, deprivation of small community rights and human rights violations.

So far, most of the development promotion efforts that have been carried out on a large scale are only oriented towards economic growth alone, this is actually able to bring benefits to macroeconomic growth / nationally and increase per capita income at the national level. However, several studies and facts in the field show that the development scheme as mentioned above is only focused on a few provinces in Java and in major cities in Indonesia so that the acceleration of economic improvement and increase in per capita income only targets specifically in the region. From various studies, it shows that the consequences of development and increased economic growth actually have an impact on increasing the number of people with low per capita income in provinces outside Java, especially people living in rural areas. This condition certainly indicates that the government has failed to realize equitable development for all regions of the Indonesian people.

Realizing this impact, the government changed the orientation of development where previously it was only oriented towards economic growth, in its current development the concept of development oriented towards efforts to solve inequality and inequality and injustice began to be implemented, although the percentage is still very limited. One of the mechanisms carried out by the government is through strengthening community capacity and accelerating infrastructure development, especially in underdeveloped, remote,

outermost, border areas and preferably in the eastern region. In this case, infrastructure development promoted by the government plays an important role in economic growth and also encourages the realization of equitable development.

As quoted from the results of the International Institute for Management Development (IMD) survey in 2011 it was stated that of the 59 countries surveyed, Indonesia was ranked 37th as a country that has limited basic infrastructure, technical infrastructure, scientific infrastructure, health and environment. Likewise, a study conducted (Kalicya & Djajaputra, 2020b) states that the Government of Indonesia has development problems, including due to low infrastructure development. As an effort to accelerate economic growth and realize justice, especially for remote areas or areas that have strategic potential, the need for infrastructure development is one of the top priorities in the government's performance plan.

(Rongiyati, 2012) stated that inequality and economic disparity between regions in Indonesia between 2011 and 2015 based on the Williamson1 index of GDP per capita reached a very high number of 0.7. The fundamental problem of this gap is triggered by inequality in infrastructure development between provinces, peaking in mid-1995 (Firdaus, 2013). The study conducted by Lesmman (2011) also shows that the disparity rate in Indonesia from 2004 to 2008 ranks worst among developed countries or other developing countries, even Indonesia lags behind the nearest neighboring country, Thailand. The limited availability of infrastructure in the eastern region and development that was previously only oriented to the central and western regions had implications for the high amount of investment centered only on Java Island and on Sumatra Island in the period 1983 to 2004. While in early 2012 the value of new investment, began to shift in the Sulawesi and Kalimantan regions and for the eastern regions namely Papua, NTT, NTB and Maluku the investment was very limited. Investment inequality in several regions in Indonesia before the promotion of infrastructure development under the leadership of President Joko Widodo is presented as stated in Table 1.1 below:

Table 1.1 Distribution of Foreign Investment (FDI) and Domestic Investment (PMDN) Value Realization in Indonesia (%)

Wilayah	1983-2003		2004		2012	
	PMA	PMDN	PMA	PMDN	PMA	PMDN
Sumatera	21,4	20,9	20,4	9,0	15,2	15,5
Jawa	61,6	51,9	68,3	55,5	55,6	57,2
Kalimantan	5,5	11,4	8,3	30,1	13,1	18,2
Sulawesi	3,4	7,4	0,5	0,6	6,1	5,3
Bali-Nusa Tenggara	3,1	2,5	2,4	1,4	4,6	3,4
Maluku-Papua	4,9	5,8	0,1	3,2	5,4	0,5
Total	100	100	100	100	100	100

Source: Indonesian Investment Coordinating Board in Firdaus (2013)

The low level of investment and low equitable distribution of development throughout Indonesia are also indicated by the high difference in GDP. This is what encourages the government to start rethinking various efforts so that development is not only concentrated on one island or only focuses on areas in Java and Sumatra.

Based on data and facts that occur, efforts to equalize development and equalize the quality of life of all Indonesian people, one of which is through the promotion of infrastructure development, is expected to answer chronic problems related to inequality. The unavailability of basic facilities for the community, namely electricity and clean water, is also an important problem that must be resolved. Morris, et al (2015) stated that Indonesia is still in an infrastructure crisis which has an impact on the ineffectiveness of development and economic growth. Where the condition of people who have not received electricity network facilities reaches 29%, and only a ± 69% of people have access to the availability of clean water.

CONCLUSION

From various studies, this research concludes that the trigger for conflicts related to land acquisition often occurs because the value of compensation / compensation given to affected communities is not given properly and fairly, lacks transparency and harms the community. In addition to problems related to injustice, it is stated that some land acquisitions carried out in Indonesia have not fully involved community participation, lack of counseling/socialization processes and meaningful public consultations on land acquisition plans carried out by parties who need land to the community, have not compiled land acquisition planning documents that are studied in depth in accordance with the environmental, socio-economic conditions of the community and the lack of involvement of parties/agencies that have authority related to land acquisition since the initial planning process. The uncertainty regarding the condition of community resettlement and what the sustainability of community life after land acquisition is also a dominant factor in the emergence of rejection in land acquisition. In addition, the implementation of land acquisition projects as a national strategic agenda

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