

IMPLEMENTATION OF COMPENSATION PAYMENTS FOR LAND IN SIAK REGENCY BASED ON LAW NUMBER 2 OF 2012 CONCERNING LAND ACQUISITION FOR DEVELOPMENT FOR PUBLIC INTEREST

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ABSTRACT

Soil is an important aspect of human life, having a role in the main foundation of all life carried out by man. This study aims to determine and analyze the implementation of compensation payments for land based on law number 2 of 2012 concerning land acquisition for development for the public interest. As well as knowing and analyzing obstacles to the implementation of compensation payments on land based on law number 2 of 2012 concerning land acquisition for development for the public interest. This research belongs to the normative type of research. So it can be known that these stages are planning, preparation, implementation, and submission of results. In addition, the process of providing compensation for land-owning communities must be carried out optimally, even the determination of the amount of compensation value must be carried out evenly.

Keywords: *Indemnity, Land, Public Interest*

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INTRODUCTION

Soil is an important aspect of human life, having a role in the main foundation of all life carried out by man (Rachmadyanti, 2017). Land can be valued as a property that has a permanent or fixed nature and can be reserved for future life, so that it is not merely seen as a commodity of mere economic value, but the relationship of land with its owner contains certain cultural, customary and economic and spiritual values (Karini, 2021). Therefore, the land must always receive important attention to maintain its sustainability and benefits.

Almost most of the survival of mankind is from land which is one of the natural resources (Qur'an, 2017), so that man's relationship with the land is not just a place to live, but more than that land provides resources for the survival of mankind from ancient times until now humans are willing to fight with others for a land that wins the war will control the land and the loser is forced to give it up and find a new land for used as a source of new life.

In addition, land stores economic value also has a social function (Rahmi, 2010). Therefore, private interest in the land is sacrificed for the public good. In reality, it often happens that in the public interest it is used as an excuse to take people's lands under the pretext of development. In the Basic Agrarian Law (UUPA) no 5 article 18 states that; "In the public interest, including the interests of the nation and state as well as the common interests of the people, land rights may be revoked, by providing appropriate compensation and in the manner regulated by law" (Law of the Republic of Indonesia Number 5 of 1960, concerning Basic Regulations on Agrarian Principles).

The legal basis for taking land rights by determining; For the public interest, including the interests of the nation and state as well as the common interests of the people, land rights can

be revoked by providing appropriate compensation in accordance with what is regulated in Law number 20 of 1961 concerning the revocation of rights to land and objects on it.

The right to control gives certain powers to the state to regulate and manage agrarian matters. But it also lays down an obligation, namely to use to achieve the greatest prosperity of the people, in the sense of happiness, welfare and independence in an independent, sovereign, just, and prosperous Indonesian society and legal state. This government as the manager directly has the authority to regulate agrarian land known as the Right to Control the State (HMN) (Sembiring, 2016).

This right brings the government to regulations aimed at the welfare of the people, one of which is in the form of national development planning (Widjaja & Tambunan, 2023). At present it is very difficult to carry out development for the public interest on state land (Arhan et al., 2021). The fact shows that development requires land but on the other hand the state land available for these needs is increasingly limited, because the existing land has been partly controlled / owned by the community with a right so that the momentum of development can be maintained (Syarfina, 2019). Especially the construction of various facilities for public interest that require land plots, then legal efforts from the government to acquire these lands in fulfilling development, among others, are carried out through the approach of rights liberation and revocation.

The problem of land acquisition is very vulnerable in handling because it involves the lives of many people, so the land acquisition process will not be separated from the problem of compensation, so it is necessary to conduct research first in assessing the provision of compensation (Yenneti et al., 2016).

The mechanism for liberation is carried out by deliberation through a land acquisition committee that has been determined by the government with the community concerned, often not reaching an agreement in determining the price of land. Meanwhile, the President of the Republic of Indonesia, Mr. Joko Widodo, said that the amount of land prices was not compensation but profit, so there was a conflict over land price issues.

So the government determines the price unilaterally for reasons in the public interest and if the price is not accepted by the community, it can submit it directly to the local District Court. The purpose of the mechanism for interfering with the government's role in legal certainty has been stated in article 33 paragraph 3 of the 1945 Constitution that; "Earth, water and natural resources contained therein whose control is assigned by the head of state of the Republic of Indonesia must be used as much as possible for the prosperity of the people" (Constitution of the Republic of Indonesia Year 1945).

The issue of land acquisition concerns two dimensions where both are placed in the balance, namely the interests of the government and the interests of the community.

This is the government that needs land, and must be more careful in dealing with it so as not to cause conflicts Land acquisition for the public interest is regulated in Law number 2 of 2012 concerning Land Acquisition for Development for Public Interest.

It is stated that the public interest is the interest of the nation, state, and society that must be realized by the government and used as much as possible for the prosperity of the people (Law Number 2 of 2012 concerning Land Acquisition for development for public interest).

The purpose of this study is in accordance with the formulation of the problem that has been put forward. Therefore the research objectives are:

1. Know and analyze the implementation of compensation payments for land based on Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest
2. Know and analyze the obstacles to the implementation of compensation payments on land based on Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest.

METHOD

The research method used in this study is the normative legal research method. Normative legal research is legal research conducted by examining library materials or secondary data (Soekanto, 2007).

According to Marzuki (2017), normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced.

In this type of legal research, often the law is conceptualized as what is written in laws and regulations, or the law is conceptualized as rules or norms that are a benchmark for human behavior that is considered appropriate (Amiruddin, 2012).

RESULTS AND DISCUSSION

Implementation of the provision of compensation payments for land based on Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest.

The enactment of Law Number 2 of 2012 in the acquisition of land for public interest uses the principle of *lex posteriori de rogat legi priori*, namely, the new law negates or overrides the same law in terms of regulating the same material (Santoso, 2013).

Based on this principle, Law Number 2 of 2012 negates or overrides Law Number 20 of 1961 as the legal basis for acquiring land for the public interest.

Land acquisition in Article 1 point 2 of Law No. 2 of 2012 junction Article 1 point 2 of Presidential Regulation Number 71 of 2012 is an activity of providing land by providing adequate compensation and adit to the entitled party.

Elements in the termination of land acquisition, the activities of providing land, adequate and fair compensation, and entitled parties.

Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest stipulates that deliberations are carried out in two stages. The first stage is public consultation stipulated in the provisions of Article 19 to Article 21.

Public consultations were conducted to obtain an agreement on the location of the development plan. Its implementation is limited to a period of 90 han. The second stage is deliberation on the determination of compensation stipulated in the provisions of Articles 37 to Article 39.

The deliberation was carried out by the National Land Agency (BPN) as the Executor of Land Acquisition (P2T) of the Pekanbaru-Kandis Toll Road with the entitled party no later than 30 han since the results of the assessment and appraiser were submitted to BPN / P2T.

The implementation of the provision of compensation payments for land goes through several stages. This stage is used as a technical matter to obtain constitutional land acquisition.

These stages are planning, preparation, implementation, and submission of results. Release of land rights carried out by the State on the rights of individuals and institutions.

The State cannot take arbitrary action against its citizens regarding the expropriation of land rights even though it actually has the authority to control, manage, and regulate everything related to land for the prosperity of the people.

However, because it has been regulated juridically on land acquisition procedures, it must be obeyed by all parties, including the State.

The guidelines or regulations that become a reference in this land acquisition process are Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest.

Starting from the first stage, namely land acquisition planning. Land acquisition planning is made by each agency that requires land for development for public interest.

Article 6 of Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest in the land acquisition plan is prepared in the form of a land acquisition planning document, at least containing:

- a. The aims and objectives of the development plan;
- b. Suitability of space utilization activities;
- c. National/regional development priorities;
- d. Land layout;
- e. Land area required;
- f. General description of the status of the land;
- g. Estimated period of implementation of land acquisition;
- h. Estimated period of implementation of development;
- i. Estimated land value;
- j. Budgeting plan; and
- k. Preference of indemnity forms.

The second stage is the preparation of land acquisition. The preparation of land acquisition is carried out by the Governor after receiving the Land Acquisition planning document by the relevant agency that requires land for public interest.

Furthermore, the Governor forms a Preparatory Team within a maximum of 5 (five) days since the land acquisition planning document is officially received by the Governor.

The Preparatory Team formed by the Governor consists of the Regent / Mayor, the relevant provincial officials, agencies that need land, government agencies that carry out affairs in the land sector and if deemed necessary can involve other relevant agencies.

As well as for the smooth implementation of the duties of the Governor's Preparatory Team, it formed a land acquisition preparation secretariat located in the provincial regional secretariat.

The Preparatory Team performs tasks in terms of:

- a. Carry out the notification of the development plan.
- b. Carry out initial data collection of the location of the development plan.
- c. Carry out public consultations on development plans
- d. Prepare the construction site designation.
- e. Announce the designation of construction sites for public use.
- f. Carry out other duties related to the preparation of land acquisition for development for public interest assigned by the Governor.

The third stage is the implementation of land acquisition. The implementation of Land Acquisition is organized by the Minister. The implementation of Land Acquisition is carried out by the head of the Regional Office as the chief executive of Land Procurement.

In order to carry out Land Acquisition, the head of the Regional Office forms the executor of Land Procurement.

The composition of the membership of the Land Acquisition executive consists of officials in charge of land acquisition affairs within the Regional Office; the Head of the local Land Office at the Land Acquisition site; officials of the Provincial apparatus in charge of land affairs; Local sub-district head at the land acquisition site; and Lurah/Village Head or other names at the location of land acquisition.

The determination of the executor of land acquisition shall be carried out within a maximum of 5 (five) days from the receipt of the application for the implementation of land acquisition.

In terms of land acquisition implementation, including preparation of implementation, inventory and identification, determination of appraisers, deliberation on determining the form of compensation, awarding compensation, providing compensation in special circumstances, depositing compensation, releasing land acquisition objects, termination of legal relations between the entitled party and the object of land acquisition, and documenting land acquisition administration data.

The fourth stage is the submission of land acquisition results. The chief executive of land acquisition submits the results of land acquisition to the agency that needs the land accompanied by land acquisition data within a maximum period of 14 (fourteen) days from the release of land acquisition object rights.

Submission of land acquisition results in the form of land parcels and land acquisition documents with the signing of the minutes of submission of land acquisition results. The submission of the results of land acquisition can be done in stages with minutes to be subsequently used by agencies that require land for certification.

Obstacles to the implementation of compensation payments for land based on Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest.

Obstacles that occur when implementing compensation payments for land in the Pekanbaru-Dumai Toll Road project based on Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest occur in several factors.

For example, one of them is the community, **Mrs. Rosmeri Pardede**, whose land was affected by the construction of the Pekanbaru-Dumai Toll Road, who did not agree to the agreed price.

The Chairman of the Siak District Court issued Decree Number 02/Pdt.P/KonsI2O17IPN.Siak dated April 21, 2017, and Order Number 02/Pdt. P/Kons/20 I 7IPN. Sak, ordered the Substitute Bailiff to make an offer to the rightful party.

However, the entitled party still refuses the amount of compensation. And the results of the bidding that has been made by the Bailiff. The Substitute Bailiff then made minutes as a report to the Chief Justice of Siak District Court.

Presidential Regulation Number 36 of 2005 as mentioned in Article 1 paragraph (12) the definition of compensation is compensation for losses both physical and non-physical as a

result of land acquisition to those who own land, buildings, plants, and other objects related to land.

Which can provide better survival of the socioeconomic level of life before being exposed to land acquisition projects. While the form of compensation can be in the form of money, replacement land, resettlement; and/or capital participation (shares).

CONCLUSION

Based on the explanation above, it can be concluded that the land acquisition mechanism for toll road construction goes through several stages.

The stages of planning, preparation, implementation and submission of results are used as technical matters to obtain constitutional land acquisition. These stages are planning, preparation, implementation, and submission of results.

In addition, the process of providing compensation for land-owning communities must be carried out optimally, even the determination of the amount of compensation value must be carried out evenly.

SUGGESTION

The process of land acquisition mechanism for toll road construction through stages is planning, preparation, implementation, and submission of results. In this implementation the community, and local government.

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