

## Changes in Agriculture Land Usage for Development of Housing (Studies in Tambakrejo Village Jombang District)

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**Abstract.** *The rise of housing development by developers on active agricultural land means the government must ensure national food security. Although Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land has been enacted, the reality is that in many cities many agricultural lands close to urban areas have been converted into residential areas. This is the background for the author to examine "The Legal Certainty Aspects in Conversion of Agricultural Land for Housing (Study in Banjardowo Village, Jombang District, Jombang Regency)". This research uses a statue approach combined with a case approach so that it is normative juridical. The process of analyzing this data was carried out descriptively analytically, namely examining the conversion of agricultural land into housing based on Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land (UU PLP2B) and also associated with the regional spatial plan of Jombang district. The legal consequences of changing the use of agricultural land for housing development if it violates the provisions of the UU PLP2B in the sense that the changed agricultural land is classified as LP2B, then even if it already has a licensing document, it is null and void. For this reason, it must be handled seriously by applying the sanctions contained in Article 70 of the UU PLP2B. The Jombang District Government's efforts to overcome the many changes in the use of agricultural land for housing development have preventively conducted socialization related to the UU PLP2B, accompanied by stipulating Jombang District Regional Regulation Number 10 of 2021 concerning the Regional Spatial Plan of Jombang District for 2021-2041. Also through the relevant agencies, namely the Investment and One-Stop Integrated Services Agency (DPMPTSP), the Agriculture Office, the National Land Agency (BPN), the Public Works and Spatial Planning Office (PUPR), and the Regional Development Planning Agency of Jombang Regency, focus, select and organize in carrying out their coordination related to licensing services. Repressively, it is to increase supervision of developers related to license ownership and deal with problems of violations of the PLP2B Law thoroughly in order to foster a deterrent effect for developers or other community members.*

**Keyword:** *Changes; Farmland; Protection; Sustainable.*

## 1. Introduction

Since the enactment of the Law No. 41 of 2009 and its outcome on the Protection of Sustainable Food Farmland, the PLP2B Act appears not to be able to stop the rate of change in agricultural land use. This is due to the fact that there are still many areas that have not established the Regional Regulations on the protection of sustainable food farmland, which is later called the Perda PLP 2B so that there is still a change in the use of farming land functions to non-farming (Direktorat Jenderal Pengendalian dan Penebitan Tanah dan Ruang Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional, 2021).

This change in the use of agricultural land is due to internal factors, external factors, and policy factors. These internal factors are due to the socio-economic condition of farmers and land users. And of the logical factors is the issuance of regulations on land functions by the central or regional government.

Space use controls are carried out systematically through the establishment of zoning regulations, permits, incentives and disincentives, as well as sanctions. The purpose of the maintenance of space planning under Article 3 of Law No. 26 of 2007 on Space Planning is to create a safe, comfortable, productive and sustainable national territorial space based on Nusantara Insight and National Resilience by:

- a) Harmony between the natural environment and the artificial environment;
- b) Combination in the use of natural resources and artificial resources with respect to human resources; and
- c) Protection of space functions and prevention of negative impacts on the environment as a result of space utilization.

In accordance with the national spatial planning policy, the Jombang District Spatial Planning is implemented in the District Regulations No. 10 of 2021 on the Plan for the Territorial Spatiality of Jomban District in 2021-2041. There is a plan for the area spatiality as a guideline for the Government of Jombang District to realize the development of sustainable district/city territory.

The change in the use of agricultural land to non-agricultural land occurred throughout the territory of Indonesia without exception Jombang District. The high rate of population growth and development makes the need for land also increasing, thus raising the problem one is the decrease of productive agricultural land into land settlements, industrial areas, highways or other public means. With the use of such productive farmland then can affect on agricultural production, the size of land and the amount of labour (Masrukhin, 2019). On one hand, the government attempts to prohibit land use conversion, while on the other hand, it actually encourages such conversion through industrial/manufacturing growth policies and other non-agricultural sector policies that in reality utilize agricultural land (Nasoetion, L.I, 2014).

The land that exists in Jombang district is declining every year due to the change in the use of agricultural land, one of its provisions is for the construction of housing carried out by the developers. (developer). In order to build housing in accordance with the functions of the system of an area then require permission. With the existence of such permission, the construction is expected to be carried out according to the environmental and spatial aspects. However, in reality there is still a developer (developer) building

housing before the issuance of the permission of the use of housing, let alone some of the housing has been marketed and used for sale without regard to the legal aspects of it. If permits are not issued or refused because they are not in accordance with the layout of Jombang District, then there will be problems later on.

Based on the above description, then the next question can be formulated:

- 1) What are the legal consequences of changing the use of agricultural land for housing construction when violating the provisions of the PLP2B Act?
- 2) How are the efforts of the Jombang District Government to control the transfer of agricultural land functions to residential land?

## **2. Research Methods**

This type of research is normative jurisprudence, where this research is focused on finding out the application of norms in existing legal practice. The research is carried out by studying a variety of legal rules that are of a formal nature such as laws, literature that is a theoretical concept that is then linked to the subject of the language of the problem (Peter Mahmud Marzuki, 2016). This study uses a statute approach combined with a case approach, which is normative jurisprudence, which aims to find out the application of the law applied in terms of changing the use of agricultural land for housing development.

## **3. Results and Discussion**

The existing farmland is used for housing, industrial, retail, and so on. This is a danger to the environmental settlements or to the sustainability of nature itself if it is done continuously. Factor caused by the change in the use of agricultural land to housing in Jombang district, among others, due to:

- 1) Animo community especially for young couples who need housing.
- 2) The price of the house is relatively cheap with credit facilities.
- 3) The trip out of the city can be accomplished in a short time so that it increasingly facilitates mobility for the community around.
- 4) On the part of farmers landowners freely sell their estate for housing construction most argue that in recent agricultural enterprises less profitable.

With regard to the provision of land for housing construction can be done through (Yani Pujiwati, 2017):

- 1) Granting of land rights to land directly owned by the State Article 1 paragraph 5 of the Regulation of the Minister of State for Agriculture/Head of the National Farming Agency No. 3 of 1999 on the Abolition of the Authority of Granting and Annulment of Decisions on Granting the Land Rights of the State, defines the granting of the land rights as the establishment of the Government which grants a right to the land of the state, including the extension of the term of the right and the renewal of the rights.

## 2) Land Consolidation

Regulation of The Minister of Agrarian Affairs And Spatial Planning / Head of The National Land Agency of The Republic of Indonesia Number 12 of 2019 on Land Consolidation, Chapter I General Provisions, Article 1 For the purposes of this Ministerial Regulation, the following terms shall mean:

"Land consolidation is a policy aimed at reorganizing land ownership, tenure, use, and utilization in accordance with spatial planning, as well as facilitating land provision for public interest while involving active community participation. The objective of land consolidation is to enhance environmental *quality and preserve natural resources*". According to Marenda Ishak, land consolidation is a policy to support current and future development with the aim of achieving optimal land use through increased efficiency and productivity of land use (Arnowo& Hadi, 2022).

### 3) Transfer or discharge of the right to land by the landowner.

In Article 114 of the Law No. 1 of 2011 on Housing and Residential Areas, it is stated that if the transfer or release of the right to land by the landowner is made after the legal body obtains the permission of the location. The transfer of the rights to land is made in the presence of the official of the land registrar after there is a joint agreement and must be registered at the Farm Office of the District/City.

4) The use and transfer of land belonging to the State or to the territory in accordance with the provisions of the laws and regulations. Article 49 (1) of Act No. 1 of 2004 on the Treasury of the State stipulates that, "the property belonging to the State/territory which is land in possession of the Central Government/Territory shall be disposed of on behalf of the Government of the Republic of Indonesia/Regional Government concerned."

### 5) Disclosure of land of a former landlord

Article 2 of Government Ordinance No. 11 of 2010 on the Disclosure and Publication of Land Disposal stipulates that, "The object of land disposal includes land which has been granted rights by the State in the form of ownership rights, business rights, right of use of buildings, rights of use, and rights of management, or the basis of possession of land which is not exploited, not used, or not used in accordance with its condition or the nature and purpose of the granting of rights or bases of its possession".

### 6) Procurement of land for development in the public interest in accordance with the provisions of the regulations of the applicable laws.

In article 1, paragraph 2, of Law No. 2 of 2012 on Land Procurement for Development for the Public Interest, it is stated that, "Land procurement is the provision of land in a way that compensates due and fair losses to the entitled party.

Practices in the field indicate that land use changes will continue to occur despite the establishment of Law No. 41 of 2009 on the Protection of Sustainable Food Farmland (PLP2B), which is to be protected and developed consistently in order to produce raw food for national food independence, resilience, and sovereignty. Article 44 of the PLP2B Act basically prohibits any change in the use of agricultural land but if such protected agricultural lands are re-functioned then they can only be used for the public interest. There is a change in the use of the land on condition that a strategic feasibility study is

carried out, a land transfer plan is drawn up, the right of ownership is liberated from the owners, and replacement land is provided. Therefore, the change of use of agricultural land into housing must have changed the status issued by the authorities (Gafuraningtyas, dkk).

In the issue of change in agricultural land use, it is closely related to the provisions of Article 2 para. (1) of the Regulations of the Jombang No. 14 Year 2022 concerning Changes to the Regulation of the jombang no. 59 Year 2021 concerning the Licensing of the Authority for Maintenance of the Permit to the Capital Planting Service and Integrated Service of Jombang District One Door (Jombang Number 14 Year 2022) which states that, "the license licensee is delegated and/or transferred to the Chief of the Service." As regards the permit for housing, there is in Article 2 Para. (2) letter b of the 14 Year Jombang No. 2022 which in one of the paragraphs states that the maintenance of the licensees attempts and does not attempt through the Single Online Submission (OSS) includes the Agreement on the Compliance of Space Safety Activities. (PKKPR).

In implementing land use change must involve several related agencies, among others:

#### 1) National Farm Office / Farm Office

National Farming Agency (BPN) It is a non-ministerial government agency that is under and accountable to the President. BPN has the duty to carry out governmental duties in the field of agriculture in accordance with the provisions of the regulations of the legislation. This institution is further regulated in Presidential Regulation No. 48 of 2020 on the National Farming Agency.

The duty of the Farm Office in land use change, that is to join the team that performs technical consideration of the agricultural land that has been submitted by the applicant for permission for land usage change together with the relevant Service. In this case, the agricultural land that has been applied for is considered whether the land is in accordance with the territorial planning plan of the district/city or not, where appropriate then permission for change of use of the land may be issued but if it is not in conformity with the spatial planning then the permission will not be published.

#### 2) Agriculture Department

Agriculture Department is responsible for the implementation of the functions of mapping, management, arrangement, supervision, application of agricultural land and integrated agricultural areas.

The duty of the Department of Agriculture in the change of land use, that is to carry out technical consideration of the agricultural land that has been submitted by the applicant for permission of change of use of land together with the relevant departments. The agricultural land is considered whether the land is in accordance with the territorial planning plan of the district/city or not, where appropriate then permission may be issued for the change of use of the land but if it is not in conformity with the spatial planning then the permission will not be published.

#### 3) Public Services and Space Planning

The Public Works and Space Planning Service, commonly referred to as the PUPR Service, is an implementing element of government affairs which becomes the authority of the District in the field of public works and space plannings. With regard to the change

in land use, it has the same duty as the other related services, namely to carry out technical consideration of the agricultural land which will be converted into non-agricultural land for housing, industrial and other construction.

#### 4) Capital Plantation and Integrated One Door Service

The Department of Capital Plants and Integrated Services One Door or commonly called DPMPTSP has a core task To assist the head of the district in carrying out the functions of the executive of the affairs of government which became the authority of the region in the field of capital planting (<https://dpmptsp>, 2025).

- a) formulation of policies in the field of capital raising and one-door licensing services;
- b) Implementation of policy in the area of capital planting and one-door licensing services;
- c) Implementation of evaluation and reporting in the field of capital planning and one-door licensing services;
- d) Implementation of the administration of the Capital Plantation Service and One Door Integrated Services;
- e) Maintenance of the functions of the executive affairs of the government of the region in the field of capital planting and integrated one-door services;
- f) Development of maintenance and implementation functions of local government affairs in the area of capital development and integrated one-door services; and
- g) Execution of other functions assigned by the Board in accordance with its duties and functions.

The main tasks and functions of the agency are subsequently outlined in the main task and function according to the existing structural posts, among others, Secretariat, Planning, Development, Cooperation and Promotion of Capital Plantation, Licensing Service Maintenance, Data Processing and Information Systems, and Control and Oversight.

In making a change of use of agricultural land into housing, the developers of course need to take care of permits first:

- 1) The applicant submits an application for permission to the Capital Plantation Service Office and (PTSP) (DPMPTSP), via Online Single Submission (OSS) independently.
- 2) The file submitted through (OSS) will be verified by the officer.
- 3) Then the authenticated file will automatically go to the account (KKP) of the Farm Office.
- 4) Applicants come to the Finance Office by bringing a Setor Order (SPS) that has been sent to the applicant's email, File, and Payment Proof (PNBP) of the Bank as well as filling in the Financial Technical Consideration (PTP) application blank which will then be validated by the locket.
- 5) After that, the Forum of Space Planning (FPR) was implemented together with (OPD) related such as (DPMPTSP), Farm Office, Service (PUPR), Agricultural Service,

(BAPPEDA), and others. The purpose of this FPR is to give consideration to the issuance of the Appropriation Agreement for Space Usage Activities. (KKPR).

6) After (FPR) is implemented, the results of the event will be sent to (DPMPTSP) which will then be published the Agreement on the Adequacy of Space Usage Activities (PKKPR).

Article 44 (1) of the PLP2B Act stipulates that, "land already designated as sustainable food agricultural land is protected and prohibited from being de-functioned." As a result of the law arising when there is a change in the use of land entered into the LP2B area that does not comply with the conditions established by law, then any person who violates the obligation or prohibition is subject to administrative sanctions as listed in Article 70 (2) of the Law PLP2B, namely, written warning, temporary cessation of activities, interim suspension of public service, closure of site, revocation of permits, cancellation of permissions, demolition of buildings, restoration of land functions, deprivation of income, and/or administrative fines. Even for the perpetrators of land use change who violate the provisions can also be subject to criminal sanctions provided for in Article 72 of the PLP2B Act:

a) Individuals who carry out the functions of Sustainable Food Farming Land as referred to in Article 44 paragraph (1) shall be punished with imprisonment for a maximum of 5 (five) years and a fine of up to IDR 1,000,000,000.00 (one billion rupees).

b) individuals who do not perform the obligation to restore the state of sustainable food farming land to its original state as described in Article 50 paragraph (2) and Article 51 shall be sentenced with a penalty of imprisonment for the maximum of 3 (three) years, and fine for the most of IDR 3,000,000,000,00 (threes billion rupias).

c) In the case of acts as mentioned in paragraphs (1) and (2) committed by government officials, the punishment shall be added to 1/3 (one third) of the penalty threatened.

Whereas sanctions will be accepted for government officials authorized to issue permits for applications for change of use of agricultural land to non-agricultural, but granting permits that are not in accordance with the spatial arrangements and do not meet the existing conditions and violate the provisions then according to Article 73 of the PLP2B Act, such officials can be punished with criminal imprisonment at least 1 (one) year and maximum 5 (five) years and/or a fine at least IDR 1.000.000.000,00 (one billion rupees) and maximum IDR 5.000.000,00 (*five billion rupias*).

According to Mr. Budi Pranoto, S.H. as the official of BPN Jombang said that against the agricultural land with the status of LP2B can not be built housing even though the requirements of ownership are complete legally. Nevertheless, the LP 2B can be de-functioned for the public interest as meant by the provisions of Article 44 paragraph (2) of the PLP2B Act (Budi Pranoto, 2024).

Given the establishment of the Law No. 41 of 2009 on the Protection of Sustainable Agriculture and Food Land (PLP2B Act) and its implementation regulations, then the companies in terms of buying agricultural land have chosen the yellow zone so that there are no problems in later days. It is further that agricultural land that belongs to the green zone (Sustainable Food Farming Land) should be avoided because in any case the licensing process will not escape, even if escape must later face legal problems (Rofit Naf'ani, 2024).

According to the Chief of Capital Plantation and One Door Integrated Services (DPMPTSP), there are still developers who have not yet owned and have not even taken care of licenses, but have been actively promoting and marketing housing. Therefore, the party expects the active role of the community to participate in the monitoring (according to the provisions of Article 68 letter g and h Jo. Article 69 of the PLP2B Act) and if there is a developer that has not yet been licensed but has already built to be immediately to the Department of Capital Plantation and One Door Integrated Services (DPMPTSP). It is also important to encourage people who want to buy housing to make sure that there are full licensing documents to be taken care of by the developer (Ilham Hero Koentjoro, 2024). Thus, all forms of permits that have an impact on the change in the function of Sustainable Food Farmland (LP2B) are void by law except those provided for in the public interest. Of course the cancellation of permission as intended is through a lawsuit to the National Business Court.

Changes to the function of active agricultural land must be accompanied by licensing documents and do not violate the PLP2B Act. Before developers build and market their housing they must take care of and obtain documents Location Permit, Land Use Change Permit (IPPT), and Building Building Permit (IMB).

Since the legislation was passed, the PLP2B Act does not seem to be able to stop the pace of change in agricultural land use. This is due to the fact that there are still many areas that have not established the PLP2B Perda, one of which is Jombang district, so there is still a change in the use of agricultural land to non-agricultural land. In order to control the use of space to prevent the occurrence of changes in land use, the Regional Government has formed Perda No. 10 Year 2021 on the Regional Area Plan Jombang District Year 2021-2041

Given the importance of achieving food sustainability, the local government is making some efforts to cope with the many changes in the use of agricultural land, among others:

- a) Preparing a Regional Regulation on Sustainable Food Farmland (LP2B) to protect existing food farmland
- b) Socialize the people who own land so that they reconsider their intentions to make changes in land use
- c) Provide incentives for farmers to retain their wild land

In terms of sustainable control of agricultural and food land, it is essential that the participation of the public does not displace the function of the agricultural land it possesses, as well as the commitment of the government to enforce the rules in controlling the land function. Thus, the availability of food land in a region will be guaranteed, in protecting the food farm land continuously from the threat of land function in order to support the food needs of the people.

As a preventive measure that has been implemented by the Government of Jombang district to minimize the use of agricultural land to be used as housing is:

- 1) Has established the Jombang District Regional Regulations No. 10 of 2021 on the Plan of Territorial Area Management of Jomban District in 2021-2041.



2) Provide socialization to the Chief of the Village in connection with the Law No. 41 of 2009 on the Protection of Sustainable Agriculture and Food Land and provide a map of sustainable agriculture and food land as set out in, Perda No. 10 of 2021 on the Regional Area Plan of Jombang District in the year 2021-2041, which subsequently the information is passed on to the members of the community concerned.

3) Through several related services, namely the Capital Plantation and Integrated One Door Service (DPMPTSP), the Agriculture Service, the National Farming Agency (BPN), the Public Works and Space Planning Service (PUPR), and the Regional Development Planning Agency of Jombang District are focused, selective and organized in carrying out their coordination related to the licensing service to implement Law No. 41 of 2009 on the Protection of Sustainable Food Farmland as appropriate.

While the repressive measures that have been implemented by the Jombang District Regional Government in dealing with the marks of the construction of agricultural land for housing is to increase supervision related to the ownership of permits. As has been the case, between the Department of Capital Plantation and Integrated One Door Service (DPMPTSP), the Agriculture Service, the National Farming Agency (BPN), the Public Works and Space Planning Service (PUPR) conducted an investigation into the construction of agricultural land discharged by the CV. KS indicated that it had not yet been licensed, then the local Pamong Praja Police Unit issued a warning letter for the cessation of construction and further clarification and further handling as stipulated in the PLP2B Act.

#### **4. Conclusion**

With regard to agricultural land belonging to the yellow zone, if it is transferred for housing construction, it must qualify both administratively and technically in accordance with Government Regulation No. 13 of 2010 on Types and Tariffs on Type of State Acceptance Non-tax for handling licences. The developer must take care of the adequacy of space-use activities (KKPR) as a basis in the use of space, including as the basis for the issuance of building permits and sector efforts permits, and as a base in the acquisition of land rights. As a result of the law of change of the use of agricultural land for construction of housing when violating the provisions of the PLP2B Act in the sense of agriculture land amended to help LP2B then even if it already has permission documents is void by law. For that to be addressed seriously by implementing the sanctions stipulated in Article 70 of the PLP2B Act. The efforts of the Jombang District Government to address the numerous changes in the use of agricultural land for housing development, preventively conducted socialization related to the Law No. 41 of 2009 on the Protection of Sustainable Food Farmland, accompanied by the establishment of the Regional Regulations of Jombang District No. 10 of 2021 on the Plan of Territorial Area Management of Jomban District in the year 2021-2041. Also through related services such as Capital Plantation and Integrated One Door Service (DPMPTSP), Agricultural Service, National Agriculture Agency (BPN), Public Works and Space Planning Service (PUPR), and Regional Development Planning Agency of Jombang District are focused, selective and organized in carrying out its coordination related to licensing services. Repressively is to increase surveillance of Miners related to licensing ownership and address the problem of violation of the PLP2B Act urgently in order to increase the impact of the developer or other members of the community.

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