

Settlement of Disputes Regarding Determination of Compensation for Land Execution for Road Construction Fast Train in Karawang Regency

Atikah Reviana Parawansa

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia, E-mail: revianaatik@gmail.com

Abstract. *The results of the study show that land acquisition for railroad tracks which are public roads is included in land acquisition for public interest, as stated in Article 10 letter b of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest Law No. 2 of 2012 Land for Public Interest as referred to in Article 4 paragraph 1 is used for development. One of the current land acquisitions in Indonesia is the construction of the Jakarta-Bandung High-Speed Train, the construction of this High-Speed Train has been planned since early 2016. The main purpose of the construction of the High-Speed Train is as a modern means of transportation connecting DKI Jakarta Province with West Java Province, especially Bandung City, which allows travel to take only a short time. Land acquisition is a series of activities to provide land, the definition of land acquisition is every activity to obtain land by providing compensation to those entitled to the land. The procedure that must be taken is by releasing or handing over land rights. The definition of releasing or handing over land rights is the activity of releasing the legal relationship between the holder of land rights and the land he controls by providing compensation on the basis of deliberation. A dispute is a condition where a party feels aggrieved by another party, which then the party conveys the dissatisfaction to the second party if a condition shows a difference of opinion then what is called the dispute occurs. As for land disputes, Regulation of the Head of the Land Agency of the Republic of Indonesia Number 3 of 2011 concerning Management of Land Case Assessment and Handling distinguishes land cases into land disputes, land conflicts, and land cases.*

Keywords : Acquisition; Compensation; Disputes.

1. Introduction

Land is an important part of human life that has a very important meaning, because most of their lives depend on land. Land can be assessed as a property that has a permanent or fixed nature and can be reserved for future

life. Land is not only viewed as a commodity with economic value, but also the relationship between land and its owner has certain cultural, economic and spiritual values. Likewise with the government, because every development carried out by the government certainly requires land. Therefore, land is a supporting factor for the life and welfare of the community. Therefore, the State of Indonesia in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia determines that: "The earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people."

The formulation of land policy in Indonesia is in Article 2 of Law Number 5 of 1960 concerning Basic Agrarian Regulations or abbreviated as UUPA which is a further elaboration of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This article explains that the earth, water and natural resources contained therein are controlled by the State. The definition of "controlled" here means that the State has the power to make regulations that can be utilized for the people of Indonesia. In other words, the State has the authority to control the earth, water, and natural resources for the benefit of its people. In it is controlled by the State. The definition of "controlled" here means that the State has the power to make regulations that can be utilized for the people of Indonesia. In other words, the State has the authority to control the earth, water, and natural resources for the benefit of its people.

The State's authority regarding the State's right to control land is regulated in Article 2 of Law Number 5 of 1960 concerning Basic Agrarian Principles, as follows:

- 1) Regulating and organizing the allocation, use, provision and maintenance of earth, water and space.
- 2) Determine and regulate the legal relationship between people and the earth, water and space.
- 3) Regulates legal relations between people and legal acts concerning earth, water and space.

In Article 6 of the UUPA it is stated that all land rights have a social function. This means that any land rights that exist in a person cannot be justified if the land is only used (or not used) solely for his personal interests, and this can cause losses to the community. The use of land must be adjusted to the circumstances and nature of the rights, so that it is beneficial to the welfare of the owner as well as the community and the State.¹ Land acquisition for railway tracks which are public roads is included in land acquisition for public interest, as stated in Article 10 letter b of Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest Law No. 2 of 2012 Land for

¹Boedi Harsono, History of the Formation of the Basic Agrarian Law, Djambatan, Jakarta, 2005, page 8

Public Interest as referred to in Article 4 paragraph 1 is used for development.²

- a) Public Road
- b) Toll road
- c) Tunnel
- d) High Speed Rail Line

Basically, land acquisition for public purposes is carried out by providing adequate and fair compensation, assessing the amount of compensation for land affected by land acquisition for public purposes, determined by the appraiser. The assessment of the amount of Compensation value by the Appraiser is carried out in land parcels including.

- a) Land
- b) Above ground and underground space
- c) Building
- d) Plant

Land acquisition for public interest is not easy to solve considering that the concept of Indonesian development basically uses the concept of sustainable development. Sustainable development is a standard that is not only intended for environmental protection, but also for development policies, meaning that in the provision, use, improvement of natural resource capacity and improvement of economic standards, it is necessary to be aware of the importance of preserving environmental functions, equality between generations, awareness of community rights and obligations, prevention of development that is damaging and irresponsible to the environment and the obligation to participate in implementing sustainable development at all levels of society. The 1945 Constitution has provided a basis as in Article 33 paragraph (3) that: "The earth and water and the natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people". From this basic provision it can be seen that the prosperity of the community is the main goal in utilizing the functions of the earth, water and space and the natural resources contained therein. The implementation of land acquisition for public interest often experiences obstacles and challenges.³

2. Research methods

Legal research is conducted to find solutions to legal issues that arise. Therefore, in order to obtain scientific truth, every research must be based

²<https://www.hukumonline.com/klinik/a/proses-ganti-rugi-pengadaan-tanah-untuk-kepentingan-rail-kereta-api-lt560f7aafec2d3/> accessed on May 17, 2024 at 21.00

³Haryanto, Eko, (2020), Settlement of land compensation disputes for the construction of the Jakarta-Bandung high-speed railway line in Karawang Regency, Lex Jurnalisa Journal Vol.17. No.3

on a method that can be accounted for. The use of the right research method is intended to make the research more focused and systematic, thus providing a greater possibility of researching things that are not yet known, and providing guidelines for organizing knowledge about the problems being studied. As a consequence of the selection of the topic of the problem to be studied, the type of research used in this study is empirical law. Empirical legal research is research that is conducted directly in society influenced by other social variables as well as being a determinant that influences the behavior of individuals or groups of people towards the desired behavior.⁴This type of research is used, considering that this research aims to identify and analyze various factors that underlie the settlement of disputes regarding the determination of compensation for land acquisition for the construction of a high-speed railway line in Karawang Regency.

3. Results And Discussion

3.1. Determination of Land Acquisition Compensation for the Development of a High-Speed Train Line in Karawang Regency

The implementation of land acquisition for public interest often experiences obstacles and challenges. Regarding the actual procedure at present there are not so many problems, but the principal difficulty lies in the culture that has grown in the Karawang community, namely that there is still an assumption from some communities that land rights are absolute rights, the consequence of which is that land owners have the right to determine the amount of compensation. To change the culture of the community in releasing their rights to land, it is necessary to find cultural similarities between the community and the government.

As long as there is no cultural similarity, serious problems will always arise. In fact, the cultural differences between the government and the community lie in the determination of compensation prices. The community wants the highest price from the market price or at least in accordance with the market price, there are even people who want the compensation price to be based on the price of several years in the future or after the land has been freed and has been used as a public facility. The definition of land acquisition is any activity to obtain land by providing compensation to those entitled to the land. The procedure that must be taken is by releasing or handing over land rights. The definition of releasing or handing over land rights is the activity of releasing the legal relationship between the holder of land rights and the land he controls by providing compensation on the basis of deliberation.

In Perma No. 02 of 2021, compensation for achieving an agreement on the value of compensation for damages can be given by the Court for the compensation that regarding the determination of making a letter to the

⁴Mukti Fajar ND and Yulianto Ahmad, *Dualism of Normative & Empirical Legal Research*, Pustaka Pelajar, Yogyakarta, 2015, page 156

district court, I accept it, but the court does not provide it directly, there must be a letter from the BPN, to complete the letter that the company owner is based on the determination of compensation.⁵

Based on this understanding, in the implementation of land acquisition for public interest, an activity is needed which is essentially carried out through deliberation with the land owner to release legal relations, among others, with the land they control.⁴⁹ Furthermore, in 2012 the government enacted Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, in this law the term land acquisition is "The activity of providing land by providing proper and fair compensation to the entitled party. The definition of land acquisition in Presidential Regulation Number 71 of 2012 concerning the Implementation of Land Acquisition for Development in the Public Interest is the activity of providing land by providing proper and fair compensation to the entitled party. Furthermore, in Presidential Decree Number 30 of 2015, the Third Amendment to Presidential Decree 71 of 2012 and Presidential Decree 148 of 2015, the Fourth Amendment to Presidential Decree Number 71 of 2012, land acquisition states, "Land acquisition is an activity to provide land by providing fair and appropriate compensation to the entitled party."⁶

The definition of Land Acquisition or the term "providing" we achieve the state of "existing" because in the effort to "provide" there is already a hidden meaning of "making available" or the state of "existing" while in procuring of course we find or precisely achieve something that is "available" because it has been "provided" unless we do not do so, so both terms, although they appear different, have meanings that lead to one understanding that can be limited to an act to make land available for government interests.⁷ According to Imam Koeswahyono, land acquisition is a legal act carried out by the government to obtain land for certain interests by providing compensation to the owner, either an individual or a legal entity, of the land according to certain procedures and nominal amounts.⁸

Based on the formulation and definitions or terms regarding land acquisition, it was born because of the limited supply of land for development, so that to obtain it, it is necessary to provide compensation to those entitled to the land. In short, the term land acquisition is known in the acquisition of land that has been recognized by a person or legal entity with a right.⁹

⁵Interview with Fenny as a young land official, Karawang Land Office, July 22, 2024. 10:00 WIB

⁶Adrian Sutedi, Implementation of the Public Interest Principle in Land Acquisition for Development, Sinar Grafika, Jakarta, 2006, page 154.

⁷Jhon Salindego, Land Problems in Development, Sinar Grafika, Jakarta, 1987

⁸Imam Koeswahyono, Tracing the Constitutional Basis for Land Acquisition for Public Development Interests, 2008, Page 1

⁹Oloan Sitrus, Release or Transfer of Rights as a Method of Land Acquisition, Dasamedia Utama, Jakarta, 1995, Page 7

In its implementation, land acquisition must be in accordance with the legal substances themselves, what is meant by legal substance in this review is the regulations on land acquisition for public interest that regulate how institutions must act or act. The form is regulations, doctrines, laws that have normative legal force up to the level of actualization that is ordered, or their formal status.¹⁰

3.2. Principles of Land Acquisition in Karawang Regency

Based on the definitions and terms regarding land acquisition to carry out land acquisition with the enactment of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, to carry out land acquisition must be in accordance with the principles contained in Article 2 of this law, namely the principles:

- a) Humanity
- b) Justice
- c) Benefits
- d) Certainty
- e) Openness
- f) Agreement
- g) Participation
- h) Welfare
- i) Sustainability

Based on the principles in the law, it can be concluded that land acquisition must be based on these principles so that its benefits can be felt by all people affected by land acquisition carried out for the public interest. However, according to Boedi Harsono, the concept of national land law is then further concretized in the legal principles of land acquisition, there are at least six legal principles that must be considered in land acquisition, namely

- 1) The control and use of land by anyone and for any purpose must be based on rights.
- 2) All land rights directly or indirectly stem from the rights of the nation.
- 3) The method of obtaining land owned by a person must be through an agreement between the parties concerned, according to the applicable provisions. Strictly speaking, under normal circumstances, parties who own land should not be forced to hand over their land.
- 4) In a state of emergency, if deliberation cannot produce an agreement, in the public interest, the ruler (in this case the President of the Republic of

¹⁰Aminuddin Salle, Law on Land Acquisition for Public Interest, Kreasi Total Media, Yogyakarta, 2007, page 99.

Indonesia) is authorized by law to take the required land by force, without the consent of the land owner, through the revocation of rights.

- 5) Both in the event of land acquisition based on agreement, and in the event of revocation of rights, the party who has surrendered his land must be given appropriate compensation, in the form of money, facilities and/or other land in return, in such a way that his social and economic conditions do not deteriorate.
- 6) People who are asked to hand over their land for development projects have the right to receive protection from Civil Service Officials and Village Officials.¹¹

Land acquisition activities involve the interests of two parties according to Maria Sumardjono, the two parties in question are government agencies that require land and the community whose land is needed for development activities. Because land as a basic human need is a manifestation of economic, social and cultural rights, land acquisition must be carried out through a process that ensures that there is no "coercion of the will" of one party over another. Given that the community must give up their land for a development activity, it must be guaranteed that their socio-economic welfare will not be worse than the original state, at least it must be equal to the state before the land was used by another party.

3.3. Dispute Resolution Regarding Determination of Land Acquisition Compensation for the Development of a High-Speed Train Line in Karawang Regency

In a policy set by the Government including the Regional Government or a legal act carried out by the parties in causing a dispute. The parties in dispute between individuals and a group of companies in the Regional Government of a certain legal community. The definition of a dispute is stated in the Big Indonesian Dictionary, namely something that causes differences of opinion, quarrels, disputes, disputes, disagreements and cases in court¹². Rachmadi Usman stated that both the words conflict and dispute both contain the meaning of differences in interests between two or more parties. A conflict will not develop into a dispute if the party who feels aggrieved only harbors feelings of dissatisfaction or concern, either directly or indirectly to the parties considered to be the cause of the loss or other parties. Thus, a dispute is a continuation of a conflict, or a conflict will turn into a dispute if it cannot be resolved.¹³

¹¹Oloan Sitrus, Release or Surrender of Rights as a Method of Land Acquisition, Dasamedia Utama, Jakarta, 1995, Page 8.

¹²Language Center of the Department of National Education, 2007, Big Indonesian Dictionary, Jakarta, City Hall 2007, Page 1037

¹³Rachmadi Usman, Options for Dispute Resolution Outside the Court, Bandung, Citra Aditya Bakti, Page 1

In a dispute, the party harmed by another party has made efforts to resolve the problem through deliberation, lawsuits to court, or settled out of court. Based on the nature of the dispute, disputes are divided into (two) types, namely:

- 1) State administrative disputes. Disputes arise due to the issuance of State Administrative Decisions by state administrative bodies or officials. State administrative disputes are resolved by lawsuits to the State Administrative Court.
- 2) Civil disputes. Disputes arise due to breach of contract or unlawful acts. Civil disputes are resolved through lawsuits to the District Court or settled outside the court. The implementation of land acquisition for public interest does not always go as expected by the agency requiring the land, namely the entitled party does not hand over or release its land for the benefit of the agency requiring the land.

The method for resolving disputes in land acquisition for public interest is stipulated in Law No. 2 of 2012.

- 1) Lawsuit to the State Administrative Court. In the preparation stage there is an activity to determine the location of development for public interest in the form of a decree issued by the governor. In the activity of determining the location of development for public interest, it can be rejected by the entitled party in the form of an objection.¹⁴
- 2) File an objection to the District Court. At the implementation stage of land acquisition activities for public interest, a compensation determination deliberation activity is held. And the BPN is aware of the existence of the land area with that in the case of land acquisition that the owner through the BPN offers the owner with a NJOP price agreement. If in terms of 62 Article 23 of Law Number 2 of 2012 1) In the case after the determination of the location of the development as referred to in Article 19 paragraph (6) and Article 22 paragraph (1) there are still objections, the Entitled Party to the determination of the location can file a lawsuit with the local State Administrative Court no later than 30 (thirty) working days from the issuance of the location determination. the offer the owner of the company did not accept the appropriate price, therefore there was a dispute over the determination of compensation. Compensation for land acquisition to land or buildings there is an offer and in this offer it is not in accordance with the company owner that has been listed cannot be resolved at this time.¹⁵

¹⁴Article 23 of Law Number 2 of 2012 1) In the event that after the determination of the location of development as referred to in Article 19 paragraph (6) and Article 22 paragraph (1) there are still objections, the Entitled Party to the determination of the location may file a lawsuit with the local State Administrative Court no later than 30 (thirty) working days from the date of issuance of the location determination.

¹⁵Interview with Desma as Junior Civil Clerk, Karawang District Court, 15-July 2024, 13:00 WIB

In relation to this, PT Karawang Cipta Persada (formerly PT Canggih Bersaudara Muliajaya) filed a lawsuit for the determination of compensation in connection with the land acquisition for the construction of the Jakarta-Bandung high-speed train to the Head of the Karawang Regency Land Office, PT Kereta Cepat Indonesia China, PT Pilar Sinergi BUMN Indonesia, Minister of Transportation of the Republic of Indonesia, Governor of West Java Province and the Mutt Aqin Bambang Purwanto Rozak Uswatun and Partners Public Appraisal Service Office (KJPP MBPRU), as in the Karawang District Court Decision Number 37/Pdt.G/2018/PNKwg, dated June 26, 2018. One of the reasons for filing the lawsuit was an objection to the assessment of the price of land acquired for the construction of the Jakarta-Bandung high-speed train where the Lot purchased by the Consortium Company in 2014 before the high-speed train project was Rp. 1,744,009,- per M2 but by the Mutt Aqin Bambang Purwanto Rozak Uswatun and Partners Public Appraisal Service Office was assessed at Rp.960,000,- per m2” Therefore, PT Karawang Cipta Persada filed an application to the Karawang District Court to obtain its rights to a fair and proper compensation value outside of what was determined based on the Assessment Report. In every land acquisition activity for public interest.

4. Conclusion

Land acquisition for public interest often experiences obstacles and challenges. Regarding the actual procedure at present there are not so many problems, but the principal difficulty lies in the culture that has grown in the Karawang community, namely that there is still an assumption from some people that land rights are absolute rights, the consequence of which is that land owners have the right to determine the amount of compensation. To change the culture of the community in releasing their rights to land, it is necessary to find cultural similarities between the community and the government. Settlement of Dispute regarding determination of compensation in land development in Karawang Regency for the construction of the Jakarta-Bandung high-speed railway, PT. Karawang Cipta Persada filed a lawsuit regarding the form and amount of compensation, as in the Karawang District Court Decision Number 37/Pdt.G/2018/PNKwg, dated June 26, 2018 and the submission of cassation to the Supreme Court of the Republic of Indonesia in its Decision Number 473.K/Pdt/2019, dated February 21, 2019, decided to reject the cassation application by PT Karawang Cipta Persada. Both Court decisions are coercive and ignore the sense of justice of PT. Karawang CiptaPersada as the holder of land rights to receive compensation.

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