

Legal Responsibilities of Village Heads and Landowners in Providing Drainage in New Residential Areas

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Abstract. *Drainage problems in the new residential area of Lemahduwur Village, Tegal Regency, arose due to organic settlement development without adequate technical planning. As a result, the drainage system was not connected to the main canal, causing flooding that impacted the community. This study aims to analyze the legal responsibilities of the village government and landowners and the legal consequences arising from this situation. This research used an empirical juridical method with a statutory and conceptual approach, supported by field data through observation and interviews, as well as a review of laws and regulations and legal doctrine. The results indicate that the village government has exercised its limited authority through drainage construction and village deliberations, but has not been able to optimally fulfill its obligations due to budget constraints and land constraints. Meanwhile, landowners have obligations based on the principle of the social function of land, but there is no formal mechanism governing compensation and land use. As a result, the solutions implemented remain partial and lack legal certainty. This study concludes that a binding legal instrument, such as an authentic deed by a notary, is needed to clarify the division of responsibilities and ensure legal certainty, so that drainage provisions can be resolved effectively and sustainably.*

Keywords: *Authentic; Drainage; Function; Law.*

1. Introduction

The growth of new settlements in Indonesia is showing very rapid dynamics, especially in areas that developed naturally without the involvement of developers. The diverse characteristics of settlements, both in terms of population density and spatial planning, are often not matched by adequate provision of basic infrastructure, particularly drainage systems. Yet, infrastructure plays a strategic role in improving the quality of life for communities and supporting sustainable regional development.¹

Drainage problems are a crucial issue in many areas, particularly during the rainy season, which often causes flooding and inundation. This situation is generally caused by a lack of

¹Sutanto, A., 2016, "The Role of Infrastructure in Sustainable Regional Development," *Journal of Urban and Regional Planning*, Vol. 27, No. 2, p. 123.

integrated drainage systems, partial canal construction, and poor adherence to technical standards.² In many cases, house construction is carried out before infrastructure planning is carried out, resulting in a mismatch between the physical development of the settlement and the drainage system that should be available.

This phenomenon also occurs in Lemahduwur Village, Tegal Regency, a new residential area with an organic development pattern. The area's mix of vacant land, rice fields, and densely populated settlements creates complexities in providing drainage. Furthermore, the lack of formal community institutional structures in some areas also hampers the planning process and the submission of infrastructure development proposals to the village government.³

From a legal perspective, providing drainage is a shared responsibility between the government and landowners. Village governments have the authority to plan and manage infrastructure under Law Number 6 of 2014 concerning Villages, while landowners are obligated to provide basic infrastructure in accordance with applicable technical provisions.⁴ However, in practice, the division of responsibilities is often unclear, leading to conflicts of interest, particularly when drainage channels cross private land.

Limited village budgets, low public awareness, and weak coordination between stakeholders further exacerbate this situation. As a result, many drainage systems are not connected to the main canal, thus not functioning optimally and negatively impacting the environment and public health.⁵

Based on these conditions, a comprehensive legal study is needed to confirm the responsibilities of the parties and determine the appropriate legal instrument for the use of private land for drainage purposes. This study aims to analyze the legal responsibilities of village governments and landowners and examine the form of agreement or deed that can provide legal certainty for providing drainage in new residential areas.

Based on the background above, the researcher is interested in discussing a study entitled Legal Responsibilities of Village Heads and Land Owners in Providing Drainage in New Residential Areas in Lemahduwur Village, Tegal Regency.

2. Research methods

This research uses the type of empirical legal research, namely research that examines how law works in society (*law in action*), not only at the normative level but also in social practice.⁶

²Hidayat, R., 2018, "Drainage Problems in Residential Areas," *Civil Engineering Journal*, Vol. 10, No. 1, p. 67

³Pratama, D., 2020, "Management of Unplanned Settlement in Rural Areas," *Regional Development Journal*, Vol. 5, No. 1, p. 89.

⁴Lestari, S., 2019, "Village Government Responsibilities in Provision of Infrastructure," *Journal of Public Administrative Law*, Vol. 12, No. 3, p. 210.

⁵Kurniawan, B., 2021, "Evaluation of Residential Drainage Systems for Flood Risk," *Journal of Environmental Engineering*, Vol. 15, No. 2, p. 134

⁶Rahardjo, S. 2002. "Law in a Social Perspective." *Journal of Law & Development*, Vol. 32, No. 2, p. 120.

The approach used is empirical juridical, combining a study of laws and regulations as secondary data and field data as primary data obtained through interviews and observations.⁷ Furthermore, this research also employs conceptual, cultural, and structural approaches to understand law in a social context and the relationships between actors within the village government system.⁸ The data sources in this study consist of primary and secondary data. Primary data was obtained through interviews with informants, while secondary data was obtained from primary, secondary, and tertiary legal materials.⁹ Data collection techniques included literature review, field observations, and semi-structured interviews to obtain comprehensive and in-depth data. Data analysis was carried out qualitatively descriptively, namely by processing and interpreting data to describe the relationship between legal norms and practices that occur in the field.¹⁰

3. Results and Discussion

3.1. Division of Legal Authority and Responsibility Between Village Government (Kelurahan) and Land Owners in Providing Drainage in New Residential Areas in Lemahduwur Village, Tegal Regency

Drainage problems in Lemahduwur Village demonstrate a mismatch between residential growth and the provision of basic infrastructure. Technically, a drainage system that is not connected to the main canal results in suboptimal hydrological function, leading to localized ponding and flooding. This aligns with studies that suggest drainage systems must be designed as a unified, integrated network to effectively channel runoff to receiving water bodies.

This phenomenon is inextricably linked to the organic and incremental pattern of settlement development. In this pattern, development is carried out in stages by communities without adequate technical planning, resulting in basic infrastructure such as drainage often being left behind.¹¹ Consequently, the problems that arise are not merely technical but also develop into environmental and social issues that directly impact the community's quality of life.

From a legal perspective, this situation reflects the suboptimal implementation of the principle of land's social function. Landowners are fundamentally obligated to use their land without harming the public interest, including without obstructing the environmental drainage system.¹²

⁷Wignjosoebroto, S. 2005. "Empirical Approach in Legal Research." *Progressive Law Journal*, Vol. 1, No. 1, P. 15.

⁸Irwansyah. 2019. "Legal Research in a Social Approach." *Journal of Legal Studies*, Vol. 7, No. 2, P. 101.

⁹Marzuki, PM 2016. "Normative and Empirical Legal Research." *Jurnal Yuridika*, Vol. 31, No. 1, P. 5.

¹⁰Sugiyono. 2018. "Qualitative Research Methods for Social Sciences." *Journal of Educational Sciences*, Vol. 10, No. 2, P. 210.

¹¹Pratama, D., 2020, "Organic Settlement Development Patterns in Rural Areas," *Journal of Urban and Regional Planning*, Vol. 5, No. 1, p. 89.

¹²Santoso, U., 2014, "The Social Function of Land Rights from an Agrarian Law Perspective," *IUS QUIA IUSTUM Law Journal*, Vol. 21, No. 3, p. 345

On the other hand, the village government has the authority to organize infrastructure development as part of the implementation of village autonomy, including through village deliberation mechanisms that emphasize community participation.

However, in practice, the division of responsibilities between village governments and landowners has not been effective. Limited village budgets and the absence of formal mechanisms for land use for public purposes are major obstacles to providing drainage. This situation demonstrates that providing environmental infrastructure requires a collaborative approach that actively involves both the government and the community.¹³

Furthermore, the absence of a binding written agreement between the parties has the potential to give rise to future legal conflicts, particularly regarding land use and drainage maintenance responsibilities. In this context, the role of a notary is crucial in providing legal certainty by creating an authentic deed that can bind the parties and prevent disputes.¹⁴

Based on the overall field data and normative analysis above, the division of authority and responsibility between the village government and land owners in Lemahduwur Subdistrict can be mapped as follows:

Aspect	Village Government	Land Owner
Basic theory	Ni'matul Huda: village autonomy discretion	Article 6 UUPA: social function of land
Legal basis	Article 26 of the Village Law; Article 60 of the Housing Law	Article 1365 of the Civil Code; Housing Law; Law No. 2/2012
Form of responsibility	Facilitation, budgeting, coordination, deliberation	Provide access, do not block drainage routes, support public infrastructure
Limits of authority	<i>Annual budget</i> principles ; village budget limitations	Limited social function of land, but entitled to compensation if it is for the public interest
Implementation facts	Building drainage of ±50 m, holding a	Some attended the meeting, one owner objected, some did not attend.

¹³Wibowo, A., 2021, "Government and Community Collaboration in Village Infrastructure Development," *Regional Development Journal*, Vol. 6, No. 1, p. 55.

¹⁴Anshori, AG, 2018, "The Role of Notaries in Providing Legal Certainty," *Jurnal Kenotariatan*, Vol. 5, No. 2, p. 145.

	meeting, allocating IDR 50 million		
Main obstacles	Limited budget and unagreed land	There is no clear compensation mechanism; there is no written agreement.	

From this mapping, it appears that both parties have a fairly clear legal and theoretical basis for their respective obligations. However, in practice, the synergy between the two has not been optimal due to several interrelated factors:

- 1) There is no legal instrument that binds both parties simultaneously in one document that has the force of proof;
- 2) There is no formal mechanism for land acquisition or compensation for land use for drainage that is implemented;
- 3) The resulting consensus agreement is verbal and collective, so it is susceptible to differences in interpretation at a later date;
- 4) Several key landowners were not present at the meetings, so the existing agreement does not cover all relevant parties.

This condition places the drainage construction in Lemahduwur Village in a situation that is legally unresolved: there has been good faith from the village government, there has been a legitimate deliberation forum based on the Village Law, and there has been some community agreement, but all of this has not been bound by a legal instrument that provides binding certainty for all parties.

Thus, the drainage issues in Lemahduwur Village not only demonstrate technical weaknesses but also reflect gaps in local legal regulation and implementation. Therefore, strengthened coordination, clarity of legal responsibilities, and written legal instruments capable of ensuring the sustainability of the drainage system are needed, both equitably and effectively.

3.2. Legal Consequences and Efforts to Resolve Negligence in Providing Drainage in New Residential Areas in Lemahduwur Subdistrict, Tegay Regency

The failure to provide a drainage system in Lemahduwur Village cannot be viewed solely as a technical issue, but rather as a multidimensional problem involving environmental, social, and legal aspects. Based on field research, at least 27 families were directly impacted by flooding due to the drainage system not functioning optimally. This condition indicates that the failure of the drainage system has caused real losses to the community, including health problems, environmental damage, and obstacles to social and economic activities. Scientific studies indicate that an inadequate drainage system has the potential

to increase the risk of environmental-based diseases and reduce the overall quality of settlements.¹⁵

From a technical perspective, the main problem lies in the lack of connection between environmental drainage channels and the main drainage channel (outfall). This prevents runoff from being effectively channeled, resulting in water accumulation at certain points. In drainage management theory, a drainage system must be designed as an integrated network to optimally perform its hydrological functions. The disconnection between drainage segments renders the system dysfunctional, even if a partial system has been constructed.¹⁶

From a state administrative law perspective, the fact that the village government has recognized this issue and discussed it in a deliberation forum demonstrates the village government's obligation to take concrete action. The village government has the authority to organize development based on the principle of village autonomy, including the provision of environmental infrastructure. This authority is not merely administrative but also carries a substantive responsibility to ensure the fulfillment of the community's basic needs. In this context, the construction of a drainage system approximately 50 meters long with a village budget allocation of Rp 50,000,000 represents a concrete implementation of this authority.

However, from a normative perspective, this action cannot be considered a full fulfillment of the obligation. This is because the constructed drainage system is not yet connected to a final drainage channel, thus not being able to provide optimal benefits to the community. Under housing and residential area law, the provision of environmental infrastructure must ensure safety, health, and environmental sustainability. Therefore, the drainage system, which is not fully functional, does not meet these standards.¹⁷ Consequently, there is a gap between the efforts made by the village government and the results that should be achieved legally.

On the other hand, the landowner's responsibility in this case is closely related to the principle of land's social function. Under Indonesian agrarian law, land rights are not absolute, but rather limited by the obligation to respect the public interest. Landowners are not permitted to use their land in a manner that harms the environment or surrounding communities, including obstructing drainage. However, in practice, this obligation cannot be imposed unilaterally without a clear mechanism.

The absence of formal mechanisms for land use for public purposes, such as land acquisition or compensation, creates legal uncertainty for landowners. In this situation, landowners find themselves in a dilemma between fulfilling their social obligations and protecting their land rights. Therefore, the rejections or objections expressed by some landowners cannot be directly categorized as unlawful acts, but must be viewed in the context of the lack of clear and fair procedures.

¹⁵Hidayat, R., 2018, "Settlement Drainage Problems and Their Impact on the Environment," *Journal of Environmental Engineering*, Vol. 10, No. 1, p. 67.

¹⁶Kodoatie, RJ, 2015, "Environment-Based Urban Drainage Management," *Civil Engineering Journal*, Vol. 12, No. 1, P. 25.

¹⁷Wibowo, A., 2021, "Settlement Infrastructure Provision and Its Impact on the Environment," *Regional Development Journal*, Vol. 6, No. 1, p. 55.

Furthermore, this situation demonstrates a gap between legal norms and their implementation on the ground. Normatively, both village governments and landowners have clear obligations, but in practice, these obligations cannot be optimally implemented due to budget constraints, weak coordination, and the absence of binding legal instruments. This aligns with the view that the effectiveness of law is largely determined by the social and institutional factors that support its implementation.

The resolution efforts undertaken through village deliberations and mutual cooperation mechanisms reflect the application of the principle of community participation in development. This approach has positive value because it directly involves the community in problem-solving. However, the agreements reached through these deliberations are not legally binding because they are not written down. As a result, these agreements are susceptible to differing interpretations and have the potential to lead to future conflict.¹⁸

In this context, a legal instrument is needed that can provide certainty and protection for all parties. The role of a notary is crucial in formulating this agreement into an authentic deed with full evidentiary force. With an authentic deed, the rights and obligations of each party can be clearly defined, thereby preventing disputes and ensuring the sustainability of drainage construction.¹⁹

Thus, the drainage problem in Lemahduwur Village reflects the complex interplay between technical, social, and legal aspects of providing residential infrastructure. The negligence that occurs is not solely the result of the actions of one party, but rather the result of limited village government capacity, the absence of clear legal mechanisms, and a lack of synergy between the government and the community. Therefore, effective solutions require an integrated approach that combines institutional strengthening, clarity of legal instruments, and increased community participation on a sustainable basis.

4. Conclusion

The division of legal authority and responsibility between the village government and landowners regarding the provision of drainage in Lemahduwur Village has a clear normative basis: the village government, based on the provisions of the Village Law and regulations related to settlement infrastructure, and the landowner, based on the principle of the social function of land in agrarian law. However, in practice, this relationship has not been synergistic. The village government has demonstrated good faith through partial drainage construction and holding deliberations, but has been hampered by budget constraints and the lack of comprehensive agreement from landowners. Furthermore, the resulting agreement remains verbal and has not been formalized in a binding legal instrument, creating uncertainty in the division of responsibilities.

Negligence in providing drainage has multiple legal consequences, both administratively and civilly. Village governments may be deemed to have failed to fully fulfill their obligations to provide infrastructure, while landowners who obstruct drainage routes face potential legal liability if they cause harm to the community. However, this situation is

¹⁸Siregar, H., 2019, "Implementation of Good Governance in Village Government," *Journal of Public Administration*, Vol. 8, No. 2, p. 112.

¹⁹Anshori, AG, 2018, "The Role of Notaries in Providing Legal Certainty," *Jurnal Kenotariatan*, Vol. 5, No. 2, p. 145.

also influenced by the lack of a clear formal mechanism for land use for public purposes, including compensation. Efforts to resolve the issue through deliberation and partial development have not been able to provide a comprehensive solution. Therefore, strengthening the legal framework through binding written legal instruments, such as authentic deeds, is necessary to provide legal certainty, clarify the rights and obligations of the parties, and ensure a fair and sustainable solution for all parties involved.

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