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Compensation for Losses of Land Ownership Rights for Public Interest in the Betoambari Baubau Airport Area

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Abstract: Development for public interest requires land as one of the important aspects that supports the success of its implementation. However, the problem is that the land controlled by the state is limited. Based on this situation, the government carries out land acquisition by using individual or legal entity land that has been controlled for the public interest. In this case, Betoambari Airport in Baubau City is carrying out development, namely expanding the runway area which requires land around the airport area. This study uses an empirical legal research method with a conceptual approach and a legal approach, both of which are interconnected from concepts and laws and regulations. The results of the study in the implementation of compensation for land rights together with the release of land for the expansion of the Betoambari Airport area in Baubau City have been carried out in 2 stages totaling 23 plots of land with a total area of 34,177 M². The obstacles that occur are that there are land certificates of owners that have been mortgaged to obtain loans at the bank. In an effort to overcome these obstacles, the city government provides time to complete the installments of the bank loan and encourages the community involved in the loan to complete the obligations of the certificate owner.

Keywords: Compensation for Losses, No Ownership of Land, Public interest

INTRODUCTION

Concerns the rights of many people. Soil has a very important role in human life, just as human life depends on land. The definition of land is regulated in Article 4 of Law Number 5 of 1960 concerning Agrarian Principles, which reads land as the surface of the earth, thus land rights are rights to the surface of the earth. The meaning of the surface of the earth is as part of the land that can be owned by every person or legal entity. The Indonesian government continues to carry out development in various fields in line with the mandate of the opening of the Law The 1945 Constitution of the Republic of Indonesia is to advance the welfare of all Indonesian people (Review & April, 2024) . Therefore, the Indonesian government seeks to achieve this goal by carrying out public development. Development for the public interest requires land as one of the important aspects that supports success its implementation.

However, the problem is that the land controlled by the state is limited. Based on this situation, the government carries out land acquisition by using land owned by individuals or legal entities that have been controlled for public interest. Land acquisition is an activity of providing land by providing compensation that fair and just to a party (Permata Sari & Sudek, 2019) .

In the implementation of compensation to land rights holders, they often do not receive compensation that is in accordance with what they should. Land and buildings are an important aspect of everyone's life and are one of the sources of human life to carry out their daily activities. Although in terms of public interest it must be prioritized first, individual interests must still be considered because every individual has the right to fair legal treatment. In Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia . In the implementation of land acquisition for the implementation of public interest development, many problems arise due to weak regulations. On the one hand, the form of previously existing regulations did not exist (Efendi, 2023) . On the other hand, the material aspects of all existing regulations are inadequate so that they have the potential to cause problems. The cause and effect problems that often arise in land acquisition activities are more due to the provisions of laws and regulations in the land sector that do not provide protection to land rights holders, especially regarding the aspect of compensation. This compensation issue is the most sensitive thing in the land acquisition process, starting from negotiations regarding the form and amount of compensation which is often the longest process due to the lack of a common ground agreed upon by the parties. This process can be an obstacle in the development process itself because it drags on in finding a common ground that can be agreed upon (Samosir et al., 2020) .

Land acquisition for public interest is a manifestation of the social function of land rights as mandated in Article 6 UUPA. Based on the philosophy of the social function of land rights, it is stipulated base formation of the Land Acquisition Law namely to guarantee availability of land for the implementation of development based on respect for people's rights to land. In the government's efforts to implement development, then every policy must be carried out carefully and in a manner that wise. The first step taken is by means of land acquisition if the government requires a plot of land for public interest. Land acquisition carried out by the Baubau city government for the development of the runway expansion of Betoambari Airport, Baubau city, is located in Katobengke sub-district, Betoambari district, Baubau city, Southeast Sulawesi province. This land acquisition is very necessary so that wide-bodied aircraft can land in Baubau city, thereby increasing economic growth in various sectors.

In general, the location of the land acquisition is a plantation area and several non-residential/residential buildings and there is a public road connecting Lipu Village and Sulaa Village. The area of land needed for the expansion of the runway extension area of Betoambari Airport is 400M² from 1800 M² to 2200 M². In the implementation of the provision of compensation for land rights for the public interest in the development of Betoambari Airport in Baubau City, there are obstacles in the form of certificates from land owners being held at the bank or having been pledged as collateral for mortgage rights to take out loans. When the city government needs land owned by the community for land acquisition, the community whose land certificates have been asked to complete it first because it is a government requirement, namely after compensation is given, thus the legal issue is Compensation for Land Ownership Rights for the Public Interest in the Betoambari Baubau Airport Area?

METHOD

The technique for writing this article uses a legal research method with a normative research type, using a *statute approach* and *conceptual approach*. (MRizky, 2020) . The secondary data sources are using primary legal materials in the form of regulations that are relevant to legal issues, and secondary legal materials which are opinions or legal theories that

are relevant to legal issues in this writing. The data collection technique used is using a documentation guide from secondary data sources, this writing uses a descriptive analysis technique with a deductive thinking method.

RESULTS AND DISCUSSION

The relationship between land and the state is a relationship that is "Publicrechterlijk", namely a relationship in the sense that the state "controls" all land in the territory of the entire Unitary State of the Republic of Indonesia. The definition of the State here is as an organization that is the highest authority of all Indonesian people as stated in Article 2 of Law No. 5 of 1960 concerning Basic Agrarian Principles (State Gazette of the Republic of Indonesia 1960 Number 104, Supplement to the State Gazette of the Republic of Indonesia Number 2043) (hereinafter abbreviated as UUPA) In relation to this article, Article 33 of the 1945 Constitution grants the state the authority that: "The earth, water and space and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". The state's right to control land and what is contained therein mentioned above also includes the procurement of land that will be used for public interest (Lubis, 2019) . Land acquisition for public interest aims to provide land for the implementation of development in order to improve the welfare and prosperity of the nation, state and society while still guaranteeing the legal interests of the entitled parties. Land acquisition aims to build public interest facilities, so there must be definite criteria regarding the meaning or category of the public interest itself. (M.Hum. et al., 2023) .

Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as stated in Article 21 Paragraph: (1) The Land Agency shall appoint an Appraiser in accordance with the provisions of statutory regulations. (2) The Land Agency shall announce the Appraiser who has been appointed as referred to in paragraph 1 to carry out the assessment of the Land Acquisition Object. (Amalia, 2012) . Explanation of Article 31 Paragraph (1) of the provisions of the laws and regulations in question are provisions regarding the procurement of goods/services by government agencies. Article 21 paragraph: (1) The appraiser appointed as referred to in Article 31 paragraph (1) must be responsible for the assessment that has been carried out. (2) Violations of the Appraiser's obligations as referred to in paragraph (1) are subject to administrative and/or criminal sanctions in accordance with the provisions of the laws and regulations. At the time of granting compensation, the party entitled to receive compensation must release its rights and submit proof of control or ownership of the land acquisition object. The value of each land varies based on the assessment determination through the Public Appraisal Services Office (KJPP). Assessment of compensation based on the provisions of Article 33 of Law Number 2 of 2012 which includes: (a) Land; (b) Space above ground and underground; (c) Buildings; (d) Plants; (e) Objects related to land; and/or (f) Other losses that can be assessed (Mantouw et al., 2018) .

When the expansion of the Airport Area was determined, which was strengthened by a Decree issued by the regional head, the Housing and Settlement Area Service in the initial stage held socialization to the community affected by the expansion of the Airport Area in the Katobengke sub-district. Socialization was given not only to the community who owned land affected by the expansion of the Airport Area, but also to the community around the Betoambari Airport area that there would be land acquisition related to the implementation of the expansion of the Betoambari Airport Area. The next stage was to conduct a location survey along with public consultation which continued with community deliberation. Furthermore, an assessment of the compensation value for the affected land was carried out. In this case, the city government through the Public Appraisal Services Office (KJPP) to determine the value of each land or plot of land owned by the community.

Land appraisers in this case are Public Appraisers who are members of a Public Appraisal Services Office (KJPP). Appraisers in KJPP are bound by their duties and responsibilities, as well as procedural procedures in carrying out their work in land acquisition activities for public interest. KJPP carries out heavy duties and responsibilities in determining the value of land acquisition objects as the basis for determining compensation for affected communities and affecting their welfare and livelihoods. KJPP is given an active role in assessing land that will be used for public interest. The role of KJPP in this case is presented as an independent third party in conducting the assessment, so that it does not intentionally benefit the party who needs the land, nor does it benefit the owner of the land needed.

Initially based on the provisions of Presidential Decree Number 55 of 1993 concerning Land Acquisition for Development in the Public Interest, the task and authority to assess land prices fell to the Land Acquisition Committee. Then in Presidential Regulation Number 36 of 2005 concerning Land Acquisition for the Implementation of Development in the Public Interest, an Appraisal Institution or Assessment Team was introduced which has been maintained until now with the issuance of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, as regulated in Article 1 number 11 that there is a Land Appraiser as a party conducting an independent assessment. The need for an independent appraiser is to ensure that there is no conflict of interest in the assessment, so that no party tends to benefit any party. The Land Acquisition Law provides attributive authority to the Appraiser, in this case specifically the Land Appraiser, to determine the value of the land acquisition object as the basis for determining the compensation deliberation that will be carried out with the entitled party.

The provision of compensation related to land acquisition for development in the public interest requires government and community efforts to help each other in the form of cooperation to ensure the implementation of development in the public interest and land acquisition for development in the public interest must be carried out in accordance with humanitarian, democratic and fair principles and refer to procedures that have been regulated in laws and regulations. (Goldie, 2018). In the implementation of compensation for land rights for the public interest of the development of Betoambari Airport in Baubau City, there were obstacles in the form of certificates from land owners being held at the bank or having been pledged as collateral for mortgage rights to take out loans. When the city government needs land owned by the community for land acquisition, the community whose land certificates have been asked to complete it first because it is a government requirement, namely after compensation is given, the original land title is deposited to carry out the transfer of land rights. It is the responsibility of the community who have pledged their land certificates to take out loans at the bank which must be completed first, namely by the bank providing a policy that has been agreed upon and must be implemented in accordance with what is the obligation of the land owner to submit the original land certificate.

CONCLUSION

The implementation of compensation for land rights together with the land acquisition for the expansion of the Betoambari Airport area in Baubau City has been carried out in 2 stages. The obstacles that occurred in the implementation of compensation for land rights for the public interest in the development of Betoambari Airport in Baubau City include the existence of land certificates of the owners that have been pledged as collateral for mortgage rights to obtain loans at the bank. In addition, because the compensation is carried out in stages due to the limited budget of the city government, there is still land that has not been released and is still waiting for the provision of compensation costs. Efforts to overcome the obstacles that occur in the implementation of compensation for land rights for the public interest in the development of Betoambari Airport in Baubau City are that people who have pledged their

certificates to obtain loans at the bank must first complete the installments of the bank loan. The city government is trying and continuing to encourage people who have pawned land certificates to immediately complete the installments of the loan which is an obligation of the certificate owner. As for land that is not certified, but has compensation or a deed of sale and purchase issued by a notary, there is no need to change the name but rather a certificate is carried out directly in the name of the government. In addition, for the provision of delayed compensation, the Baubau City Government continues to seek other funding sources to accelerate the acquisition of land for Betombari Airport. The Acting Mayor of Baubau has proposed to obtain grant funds from the Southeast Sulawesi Provincial Government (Pemprov) related to the acquisition of land for Betoambari Airport amounting to Rp16 billion.

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