



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> ✉ dinasti.info@gmail.com ☎ +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v6i5>
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The Legal Implications For The Community That Owns Buildings on The Ground In The Civic Center Area of South Central Timor Regency are Reviewed From Law Number 26 Of 2007 Concerning Spatial Planning

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Abstract: This research is motivated by the inconsistency of spatial utilization in the Civic Center area of South Central Timor Regency, which is legally designated as the center of regional government, but in reality is used by the community as a residential area and business premises. This condition raises legal issues related to spatial utilization, land ownership, and the protection of community rights to the land they occupy. This study aims to examine the legal implications of the inconsistency of spatial utilization by the community in the Civic Center area of South Central Timor Regency in terms of Law Number 26 of 2007 concerning Spatial Planning. The type of research used is empirical legal research with a sociological juridical approach. Data were obtained through interviews with the Regional Government of South Central Timor Regency and literature studies consisting of primary legal materials and secondary legal materials. The data obtained were then analyzed descriptively qualitatively based on applicable legal provisions. The results of the study indicate that the community continues to construct buildings and inhabit the Civic Center area even though the area has been designated as the center of regional government. This condition occurs due to weak regional government supervision, years of neglect, community economic needs, and a lack of public understanding of spatial planning regulations. This inconsistency in spatial use has legal implications in the form of administrative sanctions and even building demolition due to the use of space not being in accordance with the regional spatial plan. Furthermore, land ownership by the community in the Civic Center area lacks legal certainty if it is not supported by a valid legal basis and is in conflict with spatial planning provisions. However, legal responsibility in this matter lies not only with the community but also with the local government, which has been less than optimal in supervising and controlling spatial use. Therefore, the local government needs to improve supervision, law enforcement, and implement fair solutions through persuasive approaches,

legal outreach, relocation, and providing temporary lease opportunities for residents who have long occupied the area to ensure legal certainty, order, and justice in spatial use.

Keyword: Legal Implications, Spatial Planning, Land Rights.

INTRODUCTION

The Unitary State of the Republic of Indonesia is a state of law that upholds the principles of order, certainty, and utility in every aspect of society, nation, and state life. One of the legal instruments that plays an important role in regulating the use of regional space in a planned, orderly, and sustainable manner is Law Number 26 of 2007 concerning Spatial Planning. This law comprehensively regulates spatial planning, space utilization, and space utilization control throughout Indonesia, including at the district/city level.

The Civic Center Area of South Central Timor Regency (TTS) is an area that has been designated by the TTS Regency Regional Government as the center of local government. The land in the area has received a release of rights from the Ministry of Forestry to the TTS Regional Government, which means that this area is juridically an asset and authority of the local government to be managed in accordance with the designation that has been determined in the regional spatial plan. The designation of the Civic Center area is clearly intended as a government center, so the general public is not allowed to erect residential buildings or businesses on it without permits and legal rights.

However, in reality, the TTS Regency Civic Center area is not empty of residents' settlements. People have been living in the area for a long time, and some even claim to have acquired land in the area through purchases from other parties. This phenomenon illustrates the real gap between the provisions of the spatial planning law that prohibit the erection of buildings in the Civic Center area and the reality on the ground, where people still erect buildings and live in areas that are actually intended as government centers.

Based on the news published by Citra-News.Com on February 12, 2020, the Regent of TTS Regency, stated that there are around 200 (two hundred) more buildings standing in the Civic Center Zone. The buildings came from residents who lived in 2 (two) villages and 1 (one) sub-district, namely some residents of Kesetnana Village in the Dolog area, some residents of Noinbila Village, and residents in Karang Siri Village. The existence of hundreds of buildings shows that the community has been building and inhabiting the Civic Center area for a long period of time, even long before the local government officially measured and installed the boundary markers.

Although normatively the community is not allowed to erect buildings in the Civic Center area because the area has been designated as a government center, in reality the community still builds and inhabits the area. This condition occurs, among other things, due to the weak supervision and enforcement of spatial planning laws by the local government for many years, so that the community that originally only temporarily occupied ended up erecting permanent buildings, even some of them carried out land buying and selling transactions in the area as if the land was private property that could be sold.

Facing these conditions, the Regent of TTS in February 2020 took a firm stance by ordering that the Civic Center area be ordered. The TTS Regional Government budgeted the cost for the measurement and installation of stakes or pillars on the boundaries of the Civic Center area as a first step. Furthermore, the local government appealed to people who live in the area to take care of lease agreements. If the community is not willing to take care of the lease, the local government will carry out forced control, namely by demolishing the building. For people who are willing to take care of lease use, they must understand that the agreement is temporary; At any time if the government needs the land for government

purposes, the lease agreement will be terminated and the building must be demolished immediately.

This control policy has caused a polemic in the community and legislative circles. One of the TTS DPRD members from Commission III, stated that the local government should not necessarily discipline residents who have lived in the area for a long time without providing alternative solutions. According to him, residents who live in the Civic Center area do not get the land easily; Some of them have even bought land from other parties, so it would be unfair for them to simply be evicted without any compensation or provision of a replacement residence. The local government is considered to be supposed to first find a solution so that the people do not become the victim.

The above problem raises fundamental legal questions about the legal implications that arise due to the incompatibility between the use of space by the community and the spatial plan that has been determined. Judging from Law Number 26 of 2007 concerning Spatial Planning, the use of space that is not in accordance with the regional spatial plan can result in administrative sanctions, criminal sanctions, or impacts on the rights of the community over the land they occupy. Article 61 of Law Number 26 of 2007 explicitly states that in the use of space, everyone is obliged to comply with the spatial plan that has been determined, utilize the space in accordance with the space utilization permit from the authorized official, comply with the provisions stipulated in the requirements for the space use permit, and provide access to areas that are declared as public property by the provisions of laws and regulations.

Furthermore, legal responsibility for spatial planning violations is not only imposed on people who erect buildings without permits in prohibited areas, but can also touch the responsibility of local governments themselves who for years have allowed these conditions to continue without serious control efforts. On the one hand, people who erect buildings in the Civic Center area can be subject to administrative sanctions in the form of demolition orders, and under certain conditions can be charged with criminal sanctions as stipulated in Articles 69 to 75 of Law Number 26 of 2007. On the other hand, people who have lived in the area for years in good faith and have even invested some money to buy land or erect buildings, certainly have certain legal expectations of their rights that need to be protected by proportionate laws.

Based on the background description mentioned above, this study intends to examine in depth the legal implications arising from the inappropriate use of space by the community in the Civic Center area of South Central Timor Regency, especially on the rights of the community to the land they occupy, reviewed from Law Number 26 of 2007 concerning Spatial Planning. This study is expected to make a scientific contribution to the enforcement of fair spatial planning laws, as well as provide legal recommendations for the resolution of similar problems that occur in various regions in Indonesia.

Based on the background that has been described above, the formulation of the problem in this study is as follows:

What are the legal implications of the inappropriate use of space by the community in the Civic Center area of South Central Timor Regency on the community's rights to the land they occupy?

METHOD

The type of research used in this study is empirical legal research with a sociological juridical approach. Empirical legal research is research that examines how law is applied and implemented in people's lives. A sociological juridical approach is used to see the compatibility between the applicable legal provisions and the reality that occurs in the field, especially regarding the use of space in the Civic Center area of South Central Timor

Regency. This research was conducted to determine the legal implications for the community who have buildings in the Civic Center area of South Central Timor Regency reviewed from Law Number 26 of 2007 concerning Spatial Planning. The data used in this study consisted of primary data and secondary data.

Primary data was obtained through interviews with the Regional Government of South Central Timor Regency, while secondary data was obtained through literature studies in the form of laws and regulations, law books, scientific journals, and other sources related to research. Data collection techniques are carried out through interviews and literature studies. Furthermore, the data obtained was analyzed in a qualitative descriptive manner, namely by systematically deconstructing the data based on the applicable legal provisions so that conclusions can be drawn about the legal implications of the incompatibility of space use with the community's rights to the land they occupy.

Research Location

This research was conducted on the government related to the Civic Center area of South Central Timor Regency, East Nusa Tenggara Province. Data collection was carried out through direct interviews through telephone communication media.

Data Types and Sources

The data used in this study consisted of:

1. First Date

Primary data was obtained directly through interviews with: the Regional Government of South Central Timor Regency;

2. Data Seconds

Secondary data were obtained through literature studies in the form of:

- a. Law Number 26 of 2007 concerning Spatial Planning;
- b. Law books;
- c. Scientific journals;
- d. Articles and documents related to research.

Data Collection Techniques

The data collection techniques in this study were carried out through:

a. Interview

Interviews were conducted directly with the resource persons to obtain information about the existence of community buildings in the Civic Center area and its legal implications.

b. Literature Studies

Literature studies are carried out by studying primary legal materials and secondary legal materials related to spatial planning and land rights.

Data Analysis Techniques

The data obtained was analyzed in a qualitative descriptive manner, namely by systematically descriptive data and then analyzed based on applicable legal provisions so that conclusions were reached about the legal implications of space use in the Civic Center area of South Central Timor Regency.

RESULTS AND DISCUSSION

The Civic Center Area of South Central Timor Regency is an area that has been legally designated as the center of local government based on the spatial plan of the regional area. The determination shows that the Civic Center area has a special function as a public service area and the construction of government facilities so that its use must be in

accordance with the provisions of applicable laws and regulations. Therefore, the community is in principle not allowed to erect residential buildings or business buildings in the area without permission from the local government.

In Law Number 26 of 2007 concerning Spatial Planning, it is emphasized that everyone is obliged to obey the spatial plan that has been determined and utilize the space in accordance with the space utilization permit from the authorized official. These provisions show that the use of space that is not in accordance with the function of the area is a form of violation of the spatial planning law that can cause legal consequences for the community and local governments. However, based on the results of the study, it was found that the community continued to build buildings and inhabit the Civic Center area for many years. In fact, some people claim to have acquired land through buying and selling transactions from other parties and have spent money to build permanent houses in the area. This condition shows that there is a discrepancy between the provisions of spatial planning law and the reality that occurs on the ground.

Based on the Regional Regulation of South Central Timor Regency Number 8 of 2018 concerning the Detailed Spatial Plan and Zoning Regulations of the Soe Urban Area for 2018–2038, the Civic Center area is designated as the central area of the local government. Therefore, the use of space in the area must be in accordance with the function of the area as stipulated in the regional spatial plan. This provision is in line with Article 37 paragraph (1) of Law Number 26 of 2007 concerning Spatial Planning which states that the use of space is carried out in accordance with the spatial plan. In addition, Article 61 letter a of Law Number 26 of 2007 concerning Spatial Planning also emphasizes that everyone is obliged to obey the spatial plan that has been determined.

The incompatibility of the use of space has legal implications for the community's rights to the land they occupy. Juridically, the ownership of land by the community in the Civic Center area cannot be categorized as a valid property if it is not supported by a right that is recognized by law and is contrary to the regional spatial plan. In agrarian law, land rights can only be recognized if they are obtained based on legal procedures and in accordance with the spatial designation of the area that has been determined by the government. Thus, people who erect buildings without permits in the Civic Center area basically do not have legal certainty over the land they occupy.

Concretely, the legal implications for people who have buildings on land in the Civic Center area of South Central Timor Regency can be seen in several aspects. First, the community does not have legal certainty over the control of the land they occupy because the land is an area intended as the center of local government based on the regional spatial plan. Second, buildings erected by the community have the potential to be declared legally invalid because they are built without permits and are contrary to the function of the area that has been determined by the local government. Third, the community can be subject to administrative sanctions as stipulated in Law Number 26 of 2007 concerning Spatial Planning in the form of written reprimands, termination of activities, demolition of buildings, and land vacancy. Fourth, if the violation is committed deliberately and causes losses to the public interest, it can cause criminal consequences in accordance with the provisions of laws and regulations.

In addition to the implications for the community, the inconsistency in the use of space also has legal implications for local governments. The local government can be considered negligent in carrying out the function of supervision and control of space use because for many years it has allowed the community to erect buildings in the Civic Center area without strict regulation. Therefore, the resolution of this problem must be carried out fairly and proportionately while still paying attention to aspects of legal certainty, social justice, and protection of the community that has long occupied the area.

In addition, the actions of people who use the Civic Center area as a residential area can also be subject to administrative sanctions as stipulated in Law Number 26 of 2007 concerning Spatial Planning. The sanctions can be in the form of written reprimands, temporary suspension of activities, closure of the location, revocation of permits, and demolition of buildings. Under certain conditions, spatial planning violations that are committed intentionally and cause losses to the public interest can also be subject to criminal sanctions in accordance with the provisions of laws and regulations. However, in this study, it was found that the problem of space utilization in the Civic Center area cannot be fully charged to the community. The local government also has legal and administrative responsibilities because for many years it has not carried out optimal supervision and control of the buildings that stand in the area. The weak government supervision causes the community to think that the use of land in the Civic Center area is allowed or at least allowed by the local government. This condition ultimately raises legal expectations among the community that they have the right to continue occupying the area.

From the perspective of legal certainty theory, this situation shows that there is legal uncertainty in the control of space utilization. On the one hand, the government designated the Civic Center area as the center of government, but on the other hand the government allowed people to occupy the area for a long time without strict action. As a result, the community feels that they have social legitimacy to control the land even though the control is legally contrary to the regional spatial plan. Therefore, the solution to the problem of community buildings in the Civic Center area cannot be done solely through a repressive approach in the form of building demolition. The local government needs to prioritize the principles of justice, utility, and legal protection for the people who have long occupied the area. Settlement efforts can be carried out through a persuasive approach, legal socialization, relocation, and providing temporary lease opportunities for the community before comprehensive control. This step is important so that the enforcement of spatial planning laws continues without ignoring the social rights of the community. Thus, the legal implications of the non-conformity of the use of space by the community in the Civic Center area of South Central Timor Regency are not only related to violations of spatial planning provisions and the possibility of applying legal sanctions, but also related to the responsibility of local governments in creating legal certainty, supervising the use of space, and providing fair settlement to the people who have long occupied the area.

CONCLUSION

Based on the results of research and discussion on the legal implications for people who have buildings on the ground in the Civic Center area of South Central Timor Regency reviewed from Law Number 26 of 2007 concerning Spatial Planning, it can be concluded that the Civic Center area of South Central Timor Regency is legally an area intended as the center of local government in accordance with the spatial plan of the regional area. Therefore, the community is in principle not allowed to erect buildings or use the area as a settlement without the permission of the local government.

But in reality, the community continues to build buildings and inhabit the Civic Center area for a long period of time. This happens due to weak local government supervision, years of neglect, the economic needs of the community, and the lack of public understanding of spatial planning rules. This condition causes a mismatch between the use of space by the community and the function of the government area that has been determined by the local government.

The legal implication of the non-conformity in the use of space is that the community can be subject to administrative sanctions in the form of reprimands, termination of activities, and demolition of buildings in accordance with Law Number 26 of 2007 concerning Spatial

Planning. In addition, in certain conditions, violations of spatial planning can also cause criminal sanctions. However, legal responsibility in this matter is not only imposed on the community, but also related to the responsibility of the local government which is considered less than optimal in supervising and controlling the use of space in the Civic Center area of South Central Timor Regency.

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