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ANALYSIS OF THE IMPLEMENTATION OF ABANDONED LAND CONTROL IN BEKASI REGENCY

Yayas Nabila Faraz Yuliansari [1], Listyowati Sumanto [2]
Universitas Trisakti
[1]e-mail: farasyulian@gmail.com

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Abstract

Land rights must be protected by the state and society. Land rights must be registered in order to provide legal certainty for rights holders. However, in practice there are many lands that are registered but not used according to their designation. Not utilizing the land in accordance with the designation which makes abandoned land cause losses not only to rights holders, but also to the loss of the community and the state. The method in this study is juridical Normative. The results of this study are that soil has an important role in development dynamics. The importance of the role of land in having a legal relationship with its rights holders. Land that already has rights must be allocated as it should. The amount of land that is registered but not used according to its designation. Almost all of the land that is indicated to be abandoned exists in various provinces and districts/cities throughout Indonesia.

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A. Introduction

Land is a gift from God the One to every Indonesian citizen so that it has an important role for survival. Use and treat the soil properly. Land has an economic meaning, which can generate profits for every human being on earth. Land has a special position in the life of the Indonesian people until now, it can be seen from the attitude of the Indonesian people who pay respect to the land, as other names for the country are the homeland, the land of bloodshed, and the land of inheritance (Limbong, 2012).

Land has its own regulations or laws. However, land law does not regulate the whole thing related to land. However, it is a system that regulates rights in the control of the land itself. This right is contained in the main agrarian law. In the UUPA, land rights include property rights, building use rights, business use rights, use rights and other rights. So far, people in Indonesia control land with the status of property rights and building use rights even though there are still many other rights.

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Regardless of the type of land rights, Article 6 of the Basic Agrarian Law states that all these rights have a social function. This means that the land must be used in accordance with the purpose for which it is designated. Land use must be adjusted to the circumstances and nature of their rights so that it is beneficial to the community and the state. It is not allowed to use land only for personal gain or even to cause adverse impacts on the community. So that the land owned by each legal subject still considers the social aspect.

In realizing legal certainty, every land should be registered. Because one of the three purposes of land registration is to provide legal certainty. Providing legal certainty here is meant to provide legal certainty for the holders of their rights. The subject of land rights holders is divided into two, namely human beings and legal entities. Every legal subject certainly not only has rights, but also has an obligation to be managed and used properly. However, the rights and authorities that have been granted by the law are sometimes not used to the fullest by not caring about the obligation to the land. In fact, Articles 27, 34, and 40 of the UUPA stipulate the abolition of land as a result of the land falling to the State, one of which is that the land is abandoned and not used in accordance with its designation.

In Article 1 number 2 of Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Lands, abandoned land is land rights, land with management rights, and land obtained on the basis of control over land that is deliberately not cultivated, not used, not utilized, and/or not maintained. The state has given the right to land to the holder of the right to use and utilize, and is maintained with the aim of providing welfare for the community, but the land becomes abandoned because the land owner does not use the land in accordance with the rights given and does not cultivate his land. Land that becomes abandoned land can be erased of its land rights. The use of land needs to be adjusted to circumstances that can provide benefits. Land is a tool to achieve justice and provide prosperity.

The amount of land that is registered but not used according to its designation. Actions like this that make abandoned land cause losses and have an impact on the country. Land management needs to be managed properly, so the state needs an institution that does handle land issues, so the National Land Agency was formed which is specifically tasked and authorized to provide legal certainty about land and provide land information.

Various regions still have a lot of land abandonment, such as in the Regency, which is an advanced and strategic area for development and has advantages as an industrial area whose economic growth continues to develop. Therefore, the act of abandoning the land to become the control of the land is ineffective because the use of the land should be more optimal for residence or economic development (Vera Siti Parihah, 2022).

One of the cases of abandoned land that is the object of this research is the land of the Building Rights Certificate Number 342 / Wangunharja and HGB / Number 58 /

Danau Indah belonging to the legal entity PT. Pangeran Karang Pusaka who is indicated to be abandoned in Bekasi Regency and has land with the Right Decree Number 758/HGB/KWBPN/1994 dated February 16, 1994, Certificate t of Building Rights Number 192, 194, 196, 197, 76, 78, 79/Wangunharja owned by the legal entity PT. Graha Realty's Grand Monument. Based on the description above, the title of this article is Analysis of the implementation of abandoned land control in Bekasi Regency.

B. Method

The research on "Analysis of the Implementation of Abandoned Land Management" is a normative legal research. As a normative juridical research, this research is based on the analysis of legal norms, both law in the sense of law as it is written in the books, and law in the sense of law as it is decide by judge through judicial process (court decisions) (Dworkin, 1973). Thus, the object of analysis is legal norms, both in laws and regulations that are concretely applied by the Ministry of Agrarian Spatial Planning/National Land Agency. In-depth understanding of norms and regulations on land and abandoned land registration and other implementing regulations. The nature of the research used is descriptive which intends to provide as detailed data as possible about people, conditions, or other symptoms (Soekanto, Penelitian Penelitian Hukum, 1993). This descriptive research aims to describe in detail the management of abandoned land in Bekasi Regency. The data used by the author in this study are primary data and secondary data. Primary data is data obtained directly from resource persons, namely officials of the Bekasi Regency Land Office who are considered to understand the object being studied. Meanwhile, the secondary data used are primary legal materials, secondary legal materials and tertiary legal materials (Ibrahim, 2006).

C. Result & Discussion

1. Abandoned Land Control in Bekasi Regency

Every year, the national land office in the district/city has monitoring and evaluation activities related to land that is indicated to be abandoned. If there is abandoned land, it will be forwarded to the Ministry of National Land/National Land Agency. Although there are indications of abandoned land, it has been entered into the database indicated as abandoned land. The Ministry of Agrarian and Spatial Planning/National Land Agency can find out that the land is not being used, that is, when the right holder will apply for an extension, then the Ministry of Agrarian and Spatial Planning/National Land Agency will evaluate and find out that the Building Use Rights have never been utilized, then the right holder is called and questioned about why the land is not cultivated. There are various reasons from the rights holder. In fact, since the issuance of the right, it has never been used, when it is about to be extended, it is known that the land has not been used for tens of hectares for many years (Akmal Fauzan, 2019).

According to Lutfi Ibrahim Nasution, there are many things that cause the land to become abandoned, namely first, natural physical factors, namely that the soil

can be in a disaster-prone location such as floods that can make the land not cultivated by its owners (Fitri, 2018). Second, institutional factors of the community that participate in making the land abandoned, namely land in dispute cases, absentee land status, land as collateral, land whose ownership is unclear, using land not in accordance with spatial planning, already having a location permit but not built by the right holder. Third, socio-cultural factors, customary land whose owner and allocation are unclear, and heritage land that is unclear. Fourth, economic factors, poverty, high inflation make people want to invest their money in land and fifth, lack of public awareness in land use

Land that has an important role in the dynamics of the development of the Republic of Indonesia. The importance of the role of land in having a legal relationship with its rights holders (Prasista, 2022). A legal subject may not monopolize land, because in fact the law already regulates the allocation of land itself (Fitri, 2018). Land that has been allocated has been abandoned by many rights holders. With the existence of land that is indicated to be abandoned, it makes a loss for the state because the land that should be used and used to carry out good economic, social, and so on interests but instead does not get any benefit because the land is not used as it should. In 2010 the abandoned land reached 7.3 million hectares, which is estimated to be a loss for the state of Rp. 54.5 trillion per year. So we can know that land neglect is ineffective and requires more serious handling. There are many abandoned lands in various regions including Regency

Various kinds of land rights applied for by rights holders do have positive things, namely that the land has a master, but it does not rule out the possibility of negative things, namely the occurrence of land neglect and requires more serious handling. Article 10 paragraph (1) of the UUPA states that every person or legal entity that has a right to agricultural land is basically obliged to work or cultivate it by itself actively, by preventing extortion methods. Based on this article, it is understood that a right to land must be actively cultivated in accordance with its obligations.

Article 15 of the UUPA states that preserving the land, including its fertility and preventing its damage, is the obligation of every person, legal entity or agency that has a legal relationship with the land, by paying attention to economically weak parties. As we know that the value of land is now very expensive, so the buying and selling price requires a lot of costs, and also the current need for land for various interests, and illegal land sales are still rampant in some areas.

The articles in the UUPA regarding abandoned land cannot be implemented because there are no operational regulations. The previous regulation issued was Government Regulation Number 36 of 1998 concerning the Control and Utilization of Abandoned Land, then replaced with Government Regulation Number 11 of 2010 concerning the Control and Utilization of Abandoned Land as its implementing regulation. Based on the consideration that land neglect is increasing, resulting in social disparities or differences that arise, as well as the non-achievement of social and economic welfare and lowering the quality of the environment (Prasista, 2022).

However, Government Regulation Number 10 of 2010 is considered not fully effective because there is still a high level of land abandonment, so the latest government regulation was issued, namely Government Regulation Number 20 of 2021 concerning the Control of Abandoned Land and Land which carries out the mandate of Article 180 of Law Number 11 of 2020 concerning Job Creation (UUCK).

Understanding related to abandoned land means that land owned by land owners or land rights holders is not used, / not utilized and no business is carried out by the owner after obtaining rights. Therefore, improvements are needed in terms of mastering, owning, using and utilizing land by formulating various land reform rules. In order to improve welfare and certainty as well as the protection of definite land laws in the utilization of agrarian resources.

Government Regulation Number 20 of 2021 has regulated the control of areas abandoned by their owners. The regulation between the area and the abandoned land differs in the way it is regulated, both in terms of authority and the mechanism for its establishment. In areas indicated to be abandoned, the authority to regulate lies with the leaders of state institutions, ministries, non-ministerial government agencies, local governments or agencies that grant area permits.

2. Mechanism for the Implementation of Abandoned Land Control

Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 20 of 2021 concerning Procedures for the Control and Utilization of Abandoned Areas and Lands explains that regulation is a process or way to bring order. For land that is indicated to be abandoned, it is carried out by the competent Land Office. Different authorities have, the authority to inventory abandoned land is carried out by the Head of the Land Office with a minimum period of 2 years from the issuance of land rights that have been issued and have been owned by the right holder. Inventory carried out by the Head of the Land Office in an effort to control abandoned land.

The implementation of the abandoned land inventory is carried out based on reports and information in writing or electronic media provided to the Land Agency. Land inventory indicated to be abandoned is carried out by collecting data on land indicated as abandoned land according to the authority of each district or city and based on the type of land rights. The stages carried out by the Head of the Land Office begin with the collection of land data whose inventory results are reported to the Head of the Regional Office which will later be recapitulation and preparation of data on the results of the incorporation of land indicated to be abandoned and then will be given to the Minister of Agrarian and Spatial Planning through the director general of land and spatial control and control to prepare data collection administration. In the case of abandoned land, the monitoring results were found by the Bekasi Regency Land Office.

The inventory is carried out by collecting relevant data to be entered into the abandoned land database, then the results of the data that have been inventoried are submitted to the BPN Regional Office for the next stage, namely the evaluation of

abandoned land by committee C that has been formed. The results of the inventory of the Bekasi Regency Land Office show that as of now 2023 as much as 35.14 hectares of abandoned land is controlled by PT Mercu Agung Graha with the status of land rights as Building Rights.

Regulation is a process to bring order. Based on Article 10 paragraph (4) of the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 20 of 2021 concerning Procedures for the Control and Utilization of Areas and Abandoned Lands, it is stated that the land use rights of buildings as in paragraph (1) b become the object of the control of abandoned land if it is deliberately not cultivated, not used, not utilized, and/or not maintained starting from 2 (two) years from the issuance of the right.

The inventory of land indicated to be abandoned based on Article 17 of the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 20 of 2021 regulates the Inventory of Indicated Abandoned Land to be carried out by the Head of the Land Office. The inventory as intended in paragraph (1) shall be carried out no later than 2 (two) years from the issuance of the Land Rights or Management Rights.

The implementation of the Inventory is carried out based on reports or information from various sources, both from rights holders and from the community. In terms of the implementation of the Inventory of Abandoned Indicated Land, it is carried out based on the provisions in Article 18 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 20 of 2021, namely the inventory of land indicated to be abandoned is carried out by collecting several data on the soil, namely data on abandoned land in the form of textual data and spatial data.

Textual data contains matters about, Name and address of the right holder, number and date of the decision to grant rights, Number, date, and expiration of certificate/DPAT, location of land, overall land area, land use and/or land utilization and area of land indicated to be abandoned while spatial data as described above is in the form of graphic data in the form of maps of the results of land monitoring and/or delineation of satellite image maps equipped with physical coordinates of the land plot Indicated to be abandoned. The grouping of Abandoned Indicated Land data is made in order according to the district/city area with the type of land rights/Management. Textual data contains matters about, Name and address of the right holder, number and date of the decision to grant rights, Number, date, and expiration of certificate/DPAT, location of land, overall land area, land use and/or land utilization and area of land indicated to be abandoned while spatial data as described above is in the form of graphic data in the form of maps of the results of land monitoring and/or delineation of satellite image maps equipped with physical coordinates of the land plot Indicated to be abandoned. The grouping of Abandoned Indicated Land data is made in order according to the district/city area with the type of land rights/Management.

The Head of the Land Office conveyed the data obtained from the results of the Abandoned Land Inventory as explained in article 18 of the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 20 of 2021. In accordance with Article 19 of the Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency Number 20 of 2021, the results of the data that have been inventoried for land indicated to be abandoned will be compiled by the Head of the Regional Office in the form of a recapitulation or summary of the data results of the Inventory of Abandoned Inventoried Land where the data that has been compiled will be reported to the Minister through the Director General. Through the Director General, the administration and maintenance of data on the results of the Abandoned Land Inventory is carried out which forms a database for the purposes of reporting, analysis materials, and determination of the next actions needed. The database that has been created is integrated with the Ministry's Defense Information system. The procedure for implementing the Control of Abandoned Land is in accordance with Article 41 of the Minister of Agrarian Affairs Number 20 of 2021, namely with several lands first in the form of:

a. Evaluation of abandoned land
b. Abandoned land warning; and
c. Determination of abandoned land

The evaluation of abandoned land based on article 42 of the Minister of Agrarian Affairs Number 20 of 2021 is carried out with the results from the Abandoned Land Inventory that has been carried out previously. The evaluation of abandoned land is carried out for a period of 180 (one hundred and eighty) days in the calendar. Notification of Abandoned Land Evaluation regarding the implementation of the Evaluation carried out by the head of the regional kantior intended for Rights Holders/Management Rights Holders/DPAT. Notification will be given to the Rightholder/Management Rights holder/DPAT Holder in accordance with the address or domicile of the Rightholder/Management Rights Holder/DPAT Holder.

In accordance with the provisions of article 42 of the Minister of Agrarian Affairs Number 20 of 2021, the evaluation carried out will be assigned to Committee C. The committee conducts an evaluation of abandoned land, then carries out tasks in the form of examining physical data and juridical data, checking land books and/or warkah and other documents to find out the existence of the burden, including data, plans, and stages of business, use and utilization of land in the application for rights, request for information from the Right Holder/Management Right Holder/DPAT Holder and other related parties, physical inspection of land acquisition, use, utilization, and/or maintenance using existing technology, preparation of analysis of the causes of abandoned land, preparation of evaluation report results.

If the Right Holder/DPAT Management Rights Holder does not provide information about the results mentioned above, Committee C will make a note in the minutes of the evaluation results. The physical examination carried out by committee

C will be carried out 2 (two) times at the beginning and end of the evaluation. At the time of the implementation of the Abandoned Land Evaluation, the right holder/Management Rights Holder/DPAT holder is required to provide a report on the progress of land management, use, utilization, and maintenance every 30 (thirty) calendar days accompanied by supporting data to committee C.

Committee C will hold a session to discuss the results of abandoned land. The hearing will be held within one session to produce suggestions for consideration to the Head of the Regional Office in the form of acvara news. The results of the evaluation of abandoned land produce a report containing a survey of land that is not intentionally cultivated, not utilized, not maintained by the Right Holder/Management Right Holder/DPAT Holder or land that is deliberately not cultivated, not utilized, not used, not utilized, or not maintained by the Right Holder/Management Right Holder/DPAT Holder.

The criteria for intentional land exploration are that the Right Holder/Management Right Holder/DPAT Holder de facto does not cultivate, does not use, does not utilize, or does not maintain the land under his control even though he has been granted his rights or the right to a plan for the use or utilization of it. If there is committee C who does not want to sign the minutes or attends without a statement, the chairman of committee C will make a note in the minutes regarding the reasons for refusal/objection or absence. The minutes that have been made even though there are members who are not present or are not present still do not reduce the validity of the minutes. Committee C will submit the minutes and reports on the results of the evaluation that have been carried out to the Head of the Regional Office and be passed on to the Minister and the Director General.

The results of the valuation can be concluded if there is no land that is deliberately abandoned/not cultivated, not used, not utilized, and not maintained by the holder of the DPAT Right/Owner, then the Head of the Regional Office proposes to delete the data on the land indicated to be abandoned to the Minister through the Director General. The minister through the director general followed up on the proposal to remove it and then remove it from the database of land indicated to be abandoned.

However, if based on the results of the evaluation by committee C there is land that deliberately does not cultivate, does not utilize, and does not maintain the land owned or controlled, the head of the regional office will convey a notice to the Right Holder/Management Right Holder/DPAT Holder to immediately carry out the management, use, utilization and maintenance of the land owned or controlled by him for a period of 180 (one hundred and eighty) calendar days since the issuance of the notice. If the land status is state/regional property or assets of state/regional owned enterprises, notification will also be given to the Minister, the Head of the Agency that manages state/regional property or the assets of state/regional enterprises.

D. Conclusion

Land has an important role in development dynamics. The importance of the role of land in having a legal relationship with its rights holders. Land that already has rights must be allocated as it should. The amount of land that is registered but not used according to its designation. Almost all of the land that is indicated to be abandoned exists in various provinces and districts/cities throughout Indonesia. At least in 2010 the abandoned land reached 7.3 million hectares. The government itself has made regulations related to the control of wasteland. One of them is by giving authority to the national defense body. The committee assigned to control abandoned land is committee C. This committee has been given tasks and authority by existing regulations in Indonesia.

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