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Legal Analysis of the Government's Role in Allocating Land for Farmers to Provide Legal Certainty (Research Study in Batam City)

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Abstract Batam City, as a rapidly growing industrial center, faces major challenges in allocating agricultural land for farmers who need legal certainty over the land they manage. The background of the problem in this study is the conflict of interest between industrial development and the need for agricultural land protection, which often sacrifices farmers' rights and causes legal uncertainty. The purpose of this study is to analyze the role of the government in allocating land for farmers in Batam City and to provide policy recommendations that can increase legal certainty over agricultural land. The research method used is a normative and empirical juridical approach, which includes an analysis of relevant laws and regulations such as Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land, and Law Number 19 of 2013 concerning the Protection and Empowerment of Farmers. Primary data was collected through interviews with farmers, government officials, and other stakeholders, while secondary data was obtained from legal literature, policy documents, and previous case studies. The results of the study show that the implementation of land allocation for farmers in Batam City has not been optimal. Farmers often do not get adequate legal certainty because the allocated land can be revoked at any time by the government for the benefit of industrial development. The main obstacles identified include conflicts of interest between economic development and agricultural land protection, lack of legal certainty, weak coordination and oversight, development and urbanization pressures, and lack of supporting infrastructure. As a suggestion, this study recommends that the Batam City Government develop a balanced and inclusive spatial planning policy, accelerate the land certification process for farmers, improve coordination between institutions, and invest in agricultural infrastructure development. In addition, farmers are expected to strengthen their organizations to advocate for their rights, while the people of Batam City need to actively participate in the process of land use planning and monitoring to ensure sustainable and equitable development.

Keywords: Batam City Government, Land Allocation, Farmers, Legal Certainty.

I. INTRODUCTION

Agriculture is an important economic sector for developing countries, including Indonesia. Farmers are a group of people who play an important role in producing food and other agricultural commodities. However, in practice, farmers often face challenges and difficulties related to land ownership and legal certainty over the land they cultivate.

Indonesia is known as an agricultural and maritime country because of its wealth of natural resources. In addition, the strategic geographical conditions and tropical climate make the quality of natural potential superior to other countries. This potential must be utilized to advance Indonesia, especially in sectors that are close to natural resources, namely agriculture. Agriculture has an important meaning in the development of the Indonesian economy. (Winahyu Erwiningsih, 2009) Farming communities in rural areas are basically in a weak position both economically and from a legal aspect, especially in critical land areas, namely those that rely on rain-fed irrigation.

Land is a human need that will increasingly be in demand, both as a place to live and for business activities. Land rights are the State's obligation to fulfill it on the mandate and

orders of the 1945 Constitution of the Republic of Indonesia. That the existence and/or existence of the constitution in question, its position and standing are very fundamental and strategic, namely applying as the highest law, because in a philosophical paradigmatic sense, it is a manifestation of the highest social agreement of all sovereign people in a State.

Land is also a major supporting factor for the life and welfare of society. The function of land is not only limited to the need for housing but also as the growth of social, political, and cultural development of a person or a community. This indicates how important and valuable the value of land is. In order for the land not to lose its social function, the implementation of the land reform program must be carried out properly in accordance with existing laws, land reform is a reorganization, control and ownership of agricultural land, it is very necessary to provide guidance for land owners so that their land, especially farmers, does not easily fall into the hands of landlords. In the land reform itself, it is clearly stated that there is a policy that regulates so that land can be utilized evenly and does not cause land monopolies that have an impact on losses, especially for the poor and the farmers. (Idham,2011)(INyoman Wiranata,2018)

To overcome various land problems that arise due to sustainable national development activities, support is needed for several guarantees of legal certainty in the land sector. In this case, the government is a means of providing legal certainty to the community and in the implementation of the provision of legal certainty, the government is guided by Pancasila, the 1945 Constitution, the Decree of the MPR RI No. 11/ MPR/ 1988, Law Number 5 of 1960 concerning Basic Agrarian Principles.

Based on the type, there are two types of rice field conversion processes, namely rice field conversions carried out directly by farmers who own the land and those carried out by non-farmers through the sales process. Most rice field conversions are not carried out directly by farmers but by other parties, namely buyers. Conversions carried out directly by farmers are very small in area. Almost 70 percent of the rice field buying and selling process involves the government, namely location permits and land release permits (Iwan Suherman,2020)

The conversion process through the process of selling rice fields takes place through two patterns, namely a pattern where the position of farmers as sellers is monopolistic while buyers are monopsony, this occurs because the land market is highly segmented and even tends to have asymmetric information between the two. So that the market structure that is formed emphasizes more on bargaining power. While the second type is land conversion in the form of monopsony. Government involvement is possible because the government's position as a planner is tasked with allocating land, which theoretically must be adjusted to the land

suitability data of an area through its spatial planning.

Batam City is one of the areas that has experienced rapid development in Indonesia. The development of this city has had an impact on settlements, industrial growth, and infrastructure development, which often results in conflicts over land ownership. Along with the increasing population growth of Batam City, coupled with the Covid 19 Pandemic which has resulted in people being unable to work as usual, the number of farmers has grown significantly in Batam City. For this reason, the Batam City Government has issued a policy to provide agricultural land for farmers. However, the land cultivated by these farmers does not provide legal certainty because the Batam City Government can at any time unilaterally revoke the rights of farmers and transfer the land permit to entrepreneurs.

Land provision for farmers in Batam City is a crucial issue due to the shift in land function that results in disputes and legal uncertainty for farmers in managing agricultural land.¹⁵ The main problem that is the focus of this study is related to the legal certainty that farmers have regarding the land they cultivate. In Batam City, the rapid development of the city has had an impact on settlements, industry, and infrastructure, so that agricultural land is often used for other purposes. As a result, farmers often face legal uncertainty regarding land ownership and face the risk of land conflicts and disputes.

2. LITERATURE REVIEW

² Role is defined as a set of behaviors expected to be possessed by people who have a position in society. Position in this case is expected as a certain position in society that may be high, moderate or low. Position is a container that contains certain rights and obligations, while these rights and obligations can be said to be roles. Therefore, someone who has a certain position can be said to be a role occupant. A right is actually the authority to do or not do, while an obligation is a burden or task.

Agricultural land is a natural resource that plays an important role in human life. Agricultural land functions as a production factor that supports development so that it can increase the prosperity of the nation and state. Agriculture can be interpreted as a biological activity that occurs on a piece of land that is intended to obtain plants and animals so that they can meet human needs without damaging the land/land and can produce sustainably.¹⁶ Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land explains that the definition of agricultural land is a plot of land used for agricultural purposes.(A'an Efendi,2017)

⁷ Legal certainty is one of the objectives of law in order to realize justice. The concrete

form of legal certainty is the implementation or enforcement of the law against an act without regard to the object that does it. With legal certainty, everyone in Indonesia can be held accountable for all their actions. Legal certainty aims to realize the principle of equality before the law without discrimination. (Jaka Mulyata,2015)

In essence, the law must be certain and fair. This means that a certain law is a guideline for behavior and fair is a guideline for behavior that must support an order and be considered reasonable. Only by being certain and fair, the law is carried out according to its function. In understanding the values of legal certainty, there is one thing that must be considered, namely that these values have a close relationship with positive legal instruments and the role of the state in actualizing these positive laws

3. RESEARCH METHOD

The specification of this research only carries out analysis up to the level of synthesis, namely analyzing and presenting facts systematically so that they can be more easily understood and concluded. Research Specifications or what can be said as the Type of Research is a choice of research format type in researching research objects in the field of legal science being studied.

The approach method in this study is a combination of the normative approach "legal research" with the empirical approach method "Juridical Sociologies". The research mechanism with this combined approach method is carried out by describing the explanation of the inductive research method leading to the deductive method and vice versa. This is done by the author to help explain the relationship between research variables and research objects so that it can produce an understanding that is very helpful for readers, especially researchers and academics.

In this study, data analysis is carried out qualitatively by describing the research, then conducting a comparison between the data and legal theories, legal experts and laws and regulations, where the analysis begins with data collection, data processing and finally data presentation. While the conclusion drawing will use the deductive method, namely the author takes data, statements, opinions, which are general in nature and then draws specific conclusions.

4. RESULTS AND DISCUSSION

Legal Regulation of the Government's Role in Allocating Land to Farmers in Batam City to Provide Legal Certainty for Agricultural Land

Batam City, as one of the cities with rapid industrial and residential growth, faces major challenges in managing agricultural land. The legal regulation of the government's role in allocating land for farmers in Batam City is crucial to ensure legal certainty over agricultural land managed by farmers. The importance of this legal certainty not only has an impact on the socio-economic stability of farmers but also contributes to local and national food security.

Legal certainty over agricultural land is a crucial element for the welfare of farmers and the stability of the agricultural sector. In Batam City, which is an area with rapid development in the industrial and residential sectors, legal certainty for agricultural land is very important to protect farmers' rights, prevent agrarian conflicts, and ensure the sustainability of food production.

With this certainty, farmers can invest in the long term, such as improving agricultural technology, improving land infrastructure, and implementing sustainable agricultural practices that can increase their yields and income. In addition, legal certainty over agricultural land also plays an important role in preventing agrarian conflicts and land disputes. (Soerya Respationo)

Using the theory of legal certainty as a grand theory in the analysis of the legal regulation of the role of government in allocating land for farmers in Batam City shows the importance of clear and firm legal guarantees for farmers. Effective implementation of transparent, fair land allocation policies supported by consistent law enforcement will increase legal certainty, protect farmers' rights, and support their welfare.

Implementation of Land Allocation for Farmers in Batam City to Provide Legal Certainty for Agricultural Land

The philosophy behind the establishment of the Batam Business Agency (BP Batam), formerly known as the Batam Authority, is rooted in the vision to make Batam a center of international industry and trade that is able to compete in the global market. This philosophy is based on the concept of integrated regional development, where infrastructure, regulations, and economic policies are designed to create a conducive investment climate. Batam was chosen because of its strategic location in the Straits of Malacca, close to Singapore and Malaysia, making it ideal to become a logistics and manufacturing hub.

Although BP Batam has allocated some empty land to farmer groups in Batam City to be cultivated, the implementation of this land allocation is still far from optimal. Farmer groups who receive land to be cultivated do not have clear legal certainty over the land. This is due to the provision that BP Batam can at any time revoke the land management permit and give it to

a company on the grounds of improving the regional economy. This uncertainty puts farmers in a very vulnerable position, because they do not have strong legal guarantees over the land they manage.

The unilateral takeover by the Batam City Government of land cultivated by farmers is one of the most crucial issues in the implementation of agricultural land allocation. In several cases, the city government has taken back land that has been allocated to farmers on the grounds of supporting industrial and economic development. These decisions are often made without adequate consultation with farmers or without providing fair compensation.

Justice and the rule of law are fundamental principles in good governance. Land allocation policies must be implemented fairly and equitably, without discrimination or favoritism. In addition, laws must be enforced consistently to protect farmers' rights. In Batam City, injustice often occurs in land allocation, where land that should be allocated to farmers is diverted for industrial or commercial interests. Applying the principle of justice and ensuring the rule of law will provide stronger legal certainty for farmers and protect them from arbitrary actions.

Based on data from the Complete Enumeration Results of the 2023 Agricultural Census, Batam City has a number of agricultural business households spread across various sub-districts. Sekupang Sub-district has the highest number of agricultural business households, namely 300 households, with 220 agricultural businesses managing 400 hectares of land. On the other hand, Belakang Padang Sub-district has the lowest number of agricultural business households and land area, with 90 households and 100 hectares of agricultural land respectively. Overall, this data shows that although Batam is known as an industrial and trading city, there is still significant agricultural activity in several of its sub-districts. However, the main challenge faced by farmers in Batam is the legal uncertainty regarding the rights to the land they cultivate. BP Batam, as the land management authority, has the authority to revoke land management permits from farmers and divert them for industrial purposes, which can threaten the sustainability of agricultural businesses in the area

Government Obstacles and Solutions in Allocating Land to Farmers in Batam City to Provide Legal Certainty for Agricultural Land

This often leads governments to prioritize land allocation for industrial purposes in order to attract investment and create jobs. However, this decision often comes at the expense of agricultural land and ignores the interests of farmers who have been cultivating the land for a long time.

The obstacle of conflict of interest and economic priority in land allocation for farmers

in Batam City lies in the clash between the urgent need for industrial development and the urgency of protecting agricultural land for food security. The Batam City Government often prioritizes the development of industrial areas and commercial infrastructure to attract investment and create jobs, which are considered the main drivers of regional economic growth.

Lack of legal certainty is a significant barrier, with farmers often lacking proof of ownership or legal rights to use the land they manage. This leaves them vulnerable to unilateral land takeovers by the government or third parties. Without legal certainty, farmers cannot invest in land management with a sense of security.

Weak coordination between various government agencies also hampers land allocation for farmers. This lack of coordination often leads to overlapping policies and ineffective implementation. In addition, inadequate supervision of agricultural land use leads to misuse of land by unauthorized parties or conversion of land for non-agricultural purposes. Without strict supervision, land that should be allocated for farmers can be converted without a transparent and fair process, resulting in farmers losing access to the land. Weak coordination between government agencies and lack of oversight of land use are also obstacles. Overlapping policies and ineffective implementation have led to misuse and unauthorized conversion of land, harming farmers who are supposed to be protected by agrarian reform policies. The government needs to invest in the development of supporting infrastructure needed for agriculture, including irrigation systems, access roads, and storage facilities. This will help farmers manage their land more effectively and increase agricultural output.

Implementing these solutions, the government can overcome the obstacles faced in allocating land for farmers in Batam City. This will not only provide legal certainty for agricultural land but also support the sustainability of the agricultural sector and the welfare of farmers in the region. By analyzing the obstacles and solutions in allocating land for farmers in Batam City using the theory of agrarian reform, it can be concluded that fair land redistribution, strengthening property rights, empowering farmers, improving coordination and supervision, and developing supporting infrastructure are key steps that must be taken to provide legal certainty for agricultural land. The application of the principles of agrarian reform will ensure that land allocation policies not only provide legal certainty but also support farmer welfare and sustainable agricultural development.

5. CONCLUSION AND SUGGESTION

Conclusion

Based on the discussion in the previous chapter, the following conclusions can be drawn:

- a. The legal regulation of the government's role in allocating land for farmers in Batam City to provide legal certainty for agricultural land, namely Article 2 and Article 4 of Law Number 5 of 1960 concerning Basic Agrarian Principles, gives the state the authority to regulate and allocate agricultural land, while Article 6 emphasizes the social function of all land rights. Article 9 and Article 18 of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land regulate the planning and determination of sustainable agricultural land areas, and also Article 13 of Law Number 19 of 2013 concerning Protection and Empowerment of Farmers states that the government and regional governments in accordance with their authority are responsible for protecting farmers.
- b. The implementation of land allocation for farmers in Batam City to provide legal certainty for agricultural land is still not optimal, because even though the Batam City Government has allocated land for farmers, they often do not receive adequate legal certainty. The land given to farmers is not accompanied by a guarantee of ownership or clear land use rights, making farmers vulnerable because the land can be revoked at any time by the government. This uncertainty prevents farmers from investing in developing their land, creates economic and social instability, and ignores farmers' rights that should be protected by law.
- c. The main obstacles faced by the government in allocating land for farmers in Batam City to provide legal certainty for agricultural land include conflicts of interest and economic priorities, lack of legal certainty, weak coordination and supervision, pressures of development and urbanization, and lack of supporting infrastructure. To overcome these obstacles, the government needs to implement balanced and inclusive spatial planning policies, accelerate the land certification process, improve coordination between institutions, and strengthen supervision of land use.

Suggestion

From this conclusion, the author can provide several suggestions, namely:

- a. It is recommended that the Batam City Government design a spatial policy that explicitly determines agricultural areas that are protected from conversion. This includes integrating the needs of industrial development and agricultural land protection in the city's spatial plan, as well as ensuring consultation and active participation of all stakeholders, including farmers and local communities, in the decision-making process. Start with primary data

collection, such as a power of attorney to impose mortgage rights used in debt agreement practices in Batam City. You can collect examples of power of attorney from notaries, banking companies, or other financial institutions involved in this transaction.

- b. It is recommended that Farmers in Batam City need to form or strengthen farmer organizations that can function as a forum for advocating for their rights and sharing information. Through this organization, farmers can fight for legal certainty over their land, gain better access to land certification programs, and access the training and resources needed to increase agricultural productivity.
- c. It is recommended that the Batam City community be more active in participating in the spatial planning process and monitoring of land use. Thus, the community can ensure that urban development is carried out sustainably and fairly, and support the protection of agricultural land and farmers' rights. This participation can be done through citizen forums, public consultations, and cooperation with non-governmental organizations (LSM) that focus on agrarian and environmental issues.

6. REFERENCES

- A'an Efendi, & dkk. (2017). *Teori hukum*. Sinar Grafika.
- I Nyoman Wiranata. (2018). *Pembaharuan agraria di Indonesia: Antara gagasan dan implementasi kebijakan*. PT Pustaka Alvabet.
- Idham. (2011). *Konsolidasi tanah perkotaan dalam perspektif otonomi daerah, untuk mewujudkan fungsi lingkungan hidup*. Alurni.
- Iwan Suherman. (2020). *Pokok-pokok hukum agraria Indonesia*. Erlangga.
- Jaka Mulyata. (2015). *Keadilan, kepastian dan akibat hukum putusan Mahkamah Konstitusi Republik Indonesia Nomor 100/PUU-X/2012 tentang judicial review pasal 96 Undang-Undang Nomor 13 Tahun 2003 tentang ketenagakerjaan*. Fakultas Hukum Universitas Sebelas Maret.
- Soerya Respationo. (2012). *Pembagian urusan pemerintah dan pemerintah daerah*. Perdana Publishing.
- Respationo, S. (2013). Penyelenggaraan pemerintahan yang bersih menuju zona integritas wilayah bebas korupsi. *Jurnal Masalah-Masalah Hukum*, 42(1). <https://ejournal.undip.ac.id/index.php/mmh/article/view/5867>
- Sri Mamudji. (2015). *Penelitian hukum normatif: Suatu tinjauan singkat*. Raja Grafindo Persada.
- Suharsimi Arikunto. (2010). *Prosedur penelitian: Suatu pendekatan praktik*. Rineka Cipta.
- Winahyu Erwiningsih. (2009). *Hak menguasai negara atas tanah*. Total Media.

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