

Implementation of Expropriation of Abandoned Land By Government

Lanny Kusumawati¹

Faculty of Law, University of Surabaya, in Surabaya, East of Java, Indonesia

¹*Corresponding Author: Lanny Kusumawati*

ABSTRACT:- In Indonesia, many land have neglected by owners, the majority are business actors who speculate by investing their capital to buy lands that have economic and strategic value. These lands will be sold if the value of the land increases. Even the increase in land prices is very high, can be 10 times the cost of purchase.

The government finally issued a regulation to take over those lands which were indicated as abandoned lands. However, the "unscrupulous" field officers worked a lot with the land mafia, so that a lot of abandoned land, in the end, not all of them fell and were controlled by the State, instead they were taken and recognized as belonging to certain parties, by manipulating letters, in collaboration with law enforcement officials

This invites the land mafia, people who do not have a job, given the task of scouting lands that are considered abandoned and neglected. In various ways this mafia can obtain data - data about papers and the origin of the land, then manipulated.

It is true that many people are victims of the land mafia and victims of the state because their land is included as a state asset, for it is considered neglected. This is an arbitrary action by the Government, causing anxiety and causing harm to the community. This is where state injustice arises for its people. So far, the government has not supervised land affairs, the systems and work mechanisms of the Land Office have not been controlled properly, as a result, many "persons" within the Land Office have collaborated with the land mafia. This is what makes it difficult to implement the expropriation of abandoned land by the State.

Keywords: Acquisition of Abandoned Land, Government, Law Enforcement

I. INTRODUCTION

Land has economic value and is very strategic. Human life needs land, for farming, for the construction of houses, offices, buildings, factories, warehousing and others. Many capital owners invest their money to buy land, and leave it for years, even decades. Even though the government has regulated that agricultural land can only be owned by people who live on the land, as evidenced by a resident identity card. This is intended so that paddy or agricultural lands are still owned by the local population. However, this provision is violated, of course the violators are not only investors, but also village officials, because village/lurah officials, in this case, issue identities to prospective buyers of paddy fields in the area, as if they were local residents, even though the prospective buyer has an identity card. residents in the City.

Now, the Government is more assertive, with the existence of Electronic Identity Cards or abbreviated as E-KTP (Electronic Identification), it is difficult for investors to have double e-KTP, because it will be discovered if someone has a double identity. But even in this case the Village/Lurah apparatus can still trick it, by making a Temporary Domicile Certificate. Based on the letter, the investor buys paddy fields, and processes them at the local Land Agency, so that a certificate is issued on behalf of the investor.

Provisions regarding abandoned land are regulated in Government Regulation no. 11 of 2010 concerning Control and Utilization of Abandoned Land, which was then followed up with Regulation of the Head of the National Land Agency No. 4 of 2010 concerning Procedures for Ordering Abandoned Lands. The purpose of this regulation is that land is actually utilized, not neglected, there are still many poor people who do not have land to manage, on the other hand, many investors abandon hectares of land without being used. In addition, land must be utilized for the welfare of the people, to improve the quality of the environment, reduce poverty and create jobs, as well as to increase food and energy security.

Now is the time for the Government to redistribute abandoned lands or indications as abandoned lands, namely lands that are not utilized optimally, or even not utilized at all, there is no management, so that it is contrary to the nature and purpose of granting land rights, or even the status is still considered land with customary rights, which requires recognition of real land rights in the form of Letter C or Petok D. Abandoned land is not only state land formerly customary rights, but also land rights, namely Building Use Rights (HGB), Property Rights (HM), Use Rights (HP), Management Rights. So it is possible that some of these lands have expired, not been extended, so that they become state land.

The rules regarding absentee land are listed in Article 10 paragraph (1) of Law NO. 5 of 1960 stated:

Every person and legal entity that has a right to agricultural land is basically obliged to work on it or work on it actively by themselves, by preventing extortion.

Furthermore, in PP No. 41 of 1964 concerning Amendments and Supplements to PP 224 of 1960 concerning Implementation of Land Distribution and Provision of Compensation, in particular Article 3a stipulates:

The owner of an agricultural land who moves his place of residence or leaves his residence outside the district where the land is located for two consecutive years and he does not report it to the competent authority, then he is obliged to transfer his ownership rights to another person.

What includes abandoned land or indications of abandoned land includes all agricultural land, or paddy fields, dry land, plantation land, pond land, land for livestock business. In general, agricultural land is all land that is the right of people, other than land for housing and companies.

Now, President Jokowi realizes, many people cannot certify their land, due to constraints with costs, and do not understand what the procedure should be, so President Jokowi helps by creating a program for certifying residents' land which still has the status of state land, either in the form of Letter C, Petok, Girik, former private land, such as eigendom, verponding, opstal, erpach, to be certified through the Complete Systematic Land Registration program (abbreviated as PTSL)

President Jokowi provides conveniences for people who want to certify their land, free of charge, even the land/building rights acquisition fee (Bea Perolehan Hak atas Tanah dan Bangunan/ BPHTB) that must be paid can be postponed, so that the certificate is written, BPHTB is still owed, thus, if in the future the land is sold, the owner must pay off the BPHTB debt to the State. As long as the land is not transferred/sold, the owner has not paid the BPHTB indefinitely, unless the owner voluntarily pays it.

PROBLEM

From what has been described in this background, problems arise, which need to be studied, namely: Can the criteria for legal certainty regarding abandoned land or land indicated as abandoned be applicable in Indonesia, given that Indonesia's land area of 1,905 million km² is very large?

PREVIOUS RESEARCH:

1. Limbong has conducted research on abandoned land, with the title: State Land, Abandoned Land and Their Management.

Limbong said that everyone needs land for their life because land has such a strategic function. Based on the 1945 Constitution of the Republic of Indonesia Article 33 paragraph 3 which reads "earth, water and the natural resources contained therein, are controlled by the State, and are used for the greatest prosperity of the people." So people have to leave their land, so that the land becomes neglected. There are four ways to control abandoned land, including an inventory of land rights or tenure over land indicated as abandoned, identification and research of land indicated as abandoned, warning the right holders and designating abandoned land, which is based on Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 4 In 2010, regarding Procedures for Ordering Abandoned Lands, then this land can be used as before. So that it can be said that controlling abandoned land is to provide awareness to right-holders, that land abandonment is an act of injustice, which can lead to lost opportunities to realize the economic potential of land. (Journal Mercatoria, Volume 10, No. 1 by Dayat Limbong) DOI

2. Angles, examines the Nature of Abandoned Land Management Arrangements, as follows:

The definition of abandoned land is land that is not used or cultivated according to its nature, purpose, and condition, and the plot of land needs to be utilized with the issuance of the Job Creation Law with its implementing regulations PP no. 20 of 2021 concerning Control and Utilization of abandoned land is based on the provisions of Article 180 of the Job Creation Law. In Article 1 number (5) that: "Abandoned land is land that is abandoned by the holder of land rights, management rights holders or parties who have obtained the basis of control over land but have not obtained land rights in accordance with the provisions of the applicable laws and regulations". Based on Article 181 of the Job Creation Law in conjunction with Article 37 of PP No. 20 of 2021, there is a blur in the regulation of the utilization of abandoned areas and/or land, because the Ministerial

Regulation as the executor of PP No. 20 of 2021 has not yet been formed. Based on the results of the study, it was concluded that the nature of the regulation on the determination of land rights used was not in accordance with its function as abandoned land, that land rights were used as much as possible for the prosperity of all the people as stated in Article 33 paragraph (3) of the 1945 Constitution, for that the government tried to make efforts to Business in the agrarian field is regulated in such a way that it increases the production and prosperity of the people and guarantees for every Indonesian citizen a standard of living in accordance with human dignity, both for himself and his family as stipulated in Article 10 in conjunction with Article 13 of the BAL. The stipulation of land parcels as abandoned, the state has the authority to regulate it, as stated in Article 2 of the LoGA. The plot of land is for the greatest benefit of all the people through land reform. The issuance of PP No. 20 of 2021 concerning the Control and Utilization of abandoned land, it is no longer in the interest of the greatest prosperity of the people as stated in Article 33 paragraph (3) of the 1945 Constitution through land reform, but becomes a State Asset through the Land Bank and/or TCUN and managed by the Land Bank. As a result of the law enforcement and utilization of abandoned land, it can become a State Asset through the Land Bank and/or TCUN and managed by the Land Bank, that based on Presidential Regulation No. 86 of 2018 concerning Agrarian Reform is intended to reorganize the structure of control, ownership, use, and utilization of land that is more equitable through Asset Management and accompanied by Access Management for the prosperity of the Indonesian people. Utilization of TCUN is intended for agriculture and non-agriculture in the interest of society and the state through agrarian reform. This means that land parcels that are designated as abandoned land, land redistribution as well as being the basis for people's welfare in line with the provisions of Article 33 paragraph (3) of the 1945 Constitution, through landreform, do not become assets of the Land Bank. (Disertasi Santo Yosep Angles, Tahun 2022, Program Doctoral, Universitas 17 Agustus 1945, Surabaya)

Angles, Santo Yosep (2022) *Hakikat Pengaturan Penertiban Tanah Terlantar (The Nature of Abandoned Land Control Regulations)*. Doctoral thesis, Universitas 17 Agustus 1945 Surabaya.

STUDY OF LITERATURE:

If you look at the country of Indonesia, which is so vast, it is difficult for the Government to regulate land in Indonesia, that's why in Indonesia there are many disputes over land ownership. In addition to a lot of land that is not utilized, not functioned, not laid out with definite regulations, lack of supervision, not utilized optimally, causing openings for the land mafia to plunder or annex land - land belonging to residents, especially those who are legally blind and twisty - land twists.

Judging from the map, Indonesia has such vast islands, land law must be enforced and reorganized, it is necessary to reform land law or agrarian law, so now the name of the National Land Agency has been changed to Agrarian and Spatial Planning, intended to rearrange land law according to with the Regional Spatial Plan (in Indonesia's language called : Rencana Tata Ruang Wilayah or abbreviated as RT RW).

In fact, many have conducted research on Abandoned Lands, but all of them only discuss the management and utilization of abandoned lands, like the previous researchers described above, while their application is still unclear.

Likewise, the large number of land mafias, in collaboration with unscrupulous land offices, in collaboration with Notaries or Land Deed Officials, has not been eradicated so far, the result has been entrenched and ingrained as a permanent job to become a land mafia. This has a lot of victims. The government has been passive all this time, even though it is reported, there is no continuation, cases have stopped, law enforcement has not worked. Not to mention if there are lands and/or buildings that have long been abandoned by their owners, they have become the object of the land mafia's target, whose job is to roam around looking for prey. The handling of land grabbing needs to get serious attention, and the case must be guarded, because many of the land mafia, who have backing "personnel" of the army, or police, have the rank of general.



Source: Map of Indonesia

According to Article 33 of the 1945 Constitution of the Republic of Indonesia (abbreviated as the 1945 Constitution), as can be seen in the following diagram:

Table 1: Contents of the 1945 Constitution Article 33 paragraph (2), (3) and (4)

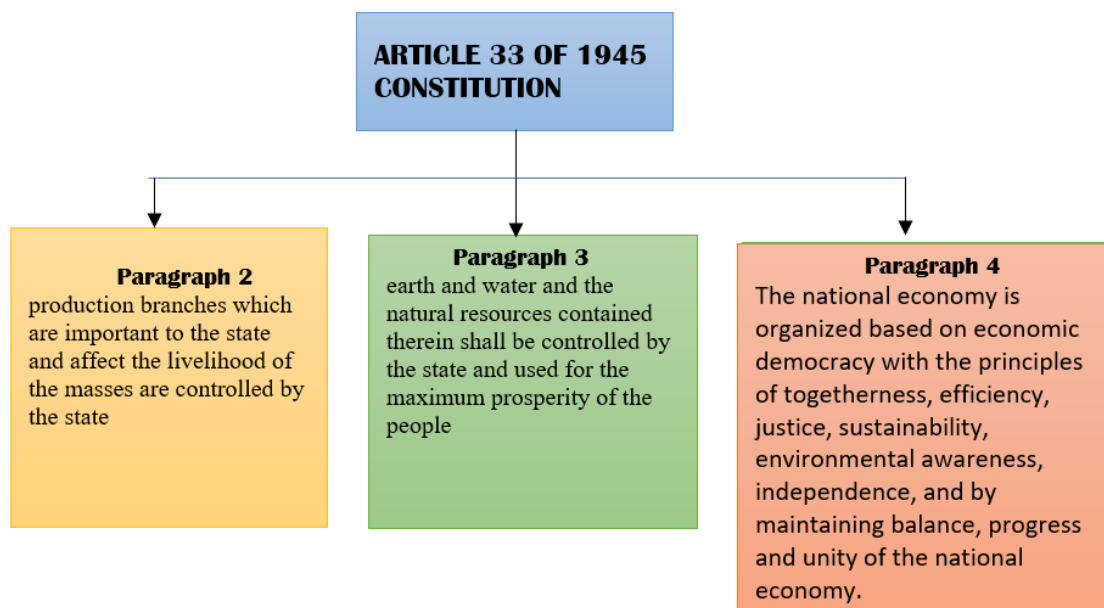


Table 1: Figure of all natural wealth for the prosperity and welfare of the people

It means that the State has the power to regulate, because everything belongs to the people, for the prosperity and welfare of the people. These settings include:

1. Create a policy
2. Management actions;
3. Settings
4. Management
5. Supervision

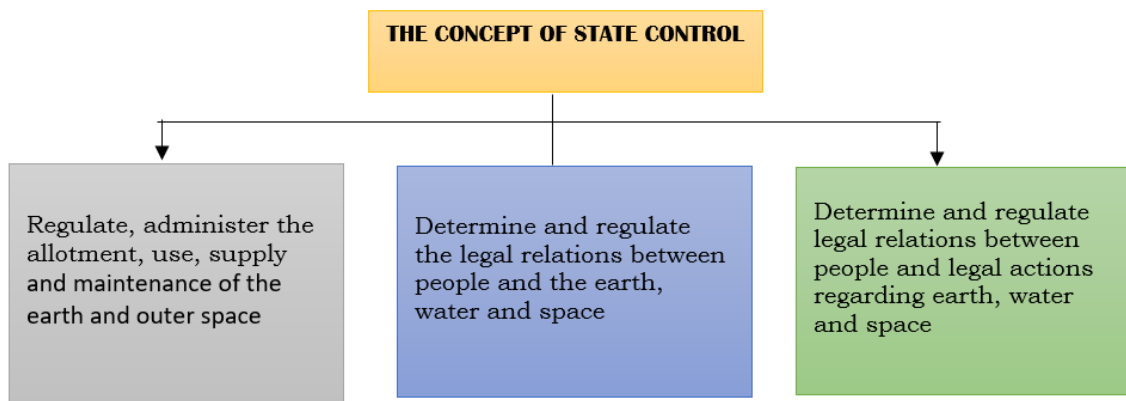


Table 2 : State Regulates

In this case, the State regulates the status of land rights to be given to the people of Indonesia, by differentiating the status of their rights, based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights. (hereinafter abbreviated as Permen ATR/BPN No. 18/2021

1. Property rights : Articles 52 - 60
is the strongest, fullest and hereditary right (this property right is only given to Indonesian citizens, for housing, not for warehouses, factories, offices, except offices or business premises as well as residence)
there is no timeframe, but must remember Article 6 of the Basic Agrarian Law No. 5 of 1960 (abbreviated as UUPA) land has a social function, so that even though land is a property right, if the state needs the land for higher interests, the owner must be willing to release it to the state, accompanied by compensation.
2. Cultivation Right: Articles 61 - 84
Given to individual Indonesian citizens, if the area is at least 5 hectares and a maximum of 26 hectares, or an Indonesian Legal Entity, for businesses, whether for plantations, livestock, aquaculture, cannot be used for industry. There is a certain period of time.
3. Building use rights : Articles 85 - 110
Given to Indonesian citizens, land still belongs to the State, residents are only allowed to build houses or shops/offices, warehouses, factories, accompanied by proof of building ownership in the form of a Building Permit.
There is a certain period of time. If the right will expire, then less than 3 years, it is mandatory to apply for an extension of time. If no extension of rights is proposed, then the status will become state land, because the rights have expired.
4. Right of Use: Articles 111 - 134
Given to Indonesian citizens, or foreign nationals living in Indonesia, or Indonesian Legal Entities, Foreign Legal Entities, which are usually for offices, or residences. The period is usually short, as long as it is still being used, a maximum of 40 years, can be extended for a maximum of 20 years, and renewed for a maximum of 30 years, as long as the State does not need it, but if the State requires the place, the Right to Use cannot be extended, and the occupant must leave the place

What often becomes a problem is the Cultivation Right, because the land area is hundreds of hectares, the cost is enormous to extend the validity period of the right. Apart from that the process is difficult, the attachments to the documents are also various, especially after the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights.

Identification and investigation of land that is suspected of being abandoned by the Committee:

1. Head of the National Land Agency
2. Relevant agencies;
3. Regional Government

Meanwhile, the Head of the Regional Office of the National Land Agency will issue an indication of abandoned land by writing a letter of introduction, the contents of which remind the owner that the land is used according to its designation optimally. Determination of abandoned land, is a decision on the status of the land, then the land becomes a "status quo".

In practice, if the land has been designated as abandoned land, then the land has been included in the land as a state asset, so that if the owner fights for the land to return to him, the process is very difficult, he must hold a case many times, the owner must fulfill certain conditions. which is very difficult to implement and takes a long time. In fact, the determination of abandoned land, often engineered by the local population, by cooperating with the Lurah / village head, or even non-governmental organizations (NGOs) funded by certain people, includes the land in the list as abandoned land.

Obstacles Causing Abandoned Land:

1. Lack of capital or no capital to utilize the land, so that the land is not managed properly, or is not utilized, the owner becomes passive, as if the land is no man's land, even though there is an owner, it's just that the owner does not live on the location of the land;
2. Many non-governmental organizations are ignorant, just looking around, so that the land is reported to the local Lurah/Village Head, as a result the land is recorded as land with indications of abandoned land, then over time, its status is no longer as land with indications of abandonment, but becomes abandoned land, and is reported to the Regional Land Office;
3. It was difficult to process the extension of the right, it was too convoluted, the many required documents required, the result was that the time period was not rushed, it became state land, especially Cultivation Rights (*Hak Guna Bangunan*)

According to Maria S.W.Soemardjono (2022: p. 4) regarding the large amount of land belonging to residents that is categorized as abandoned land, she says:

1. Regulations regarding abandoned land as implementing regulations for the Job Creation Law (abbreviated as UUCK) should not create the impression of "giving concessions" to violators of the principle of the social function of land rights, which should result in imposition of sanctions. Strict regulations and law enforcement can minimize land abandonment.
2. There needs to be tolerance or thinking, not arbitrarily the State takes over community-owned land under the pretext of abandoned land, but there are exceptions as abandoned land objects, due to special circumstances which cannot be categorized as "intentional" from the right holder.
3. In addition, a "reasonable" timeframe for carrying out an inventory and evaluation up to the stage of determining abandoned land, this is due to the lengthy process of filing document attachments not from the owner, but from the local land office and regional office, causing the extension of registration Cultivation Rights Expiration;
4. Coordination with related agencies, for example in relation to the valuation of plantation businesses (Permentan No. 7 of 2009) as one of the conditions for extension of Cultivation Rights (*Hak Guna Usaha*), which can end up with state land;
5. There are many more and it is difficult to fulfill because it involves permits that must be owned in the framework of an extension of Cultivation Rights, the process is long.

Presidential Regulation on Agrarian Reform No. 86 of 2018, the implementation must be firm, and the implementation must be correct, so that the state does not recklessly take over people's lands, with the excuse that the land is abandoned, not functioning and optimally utilized, even though the Land Bank Agency and the Agrarian Reform Task Force need to know if it has taking the land belonging to the population, it must be redistributed to the poor who do not own land, only work on other people's land. Don't let abandoned land be accommodated in the Land Bank Agency, it turns out to be sold to investors. This will make people feel unfair. In relation to land tenure and ownership, it must be based on justice and people's prosperity.

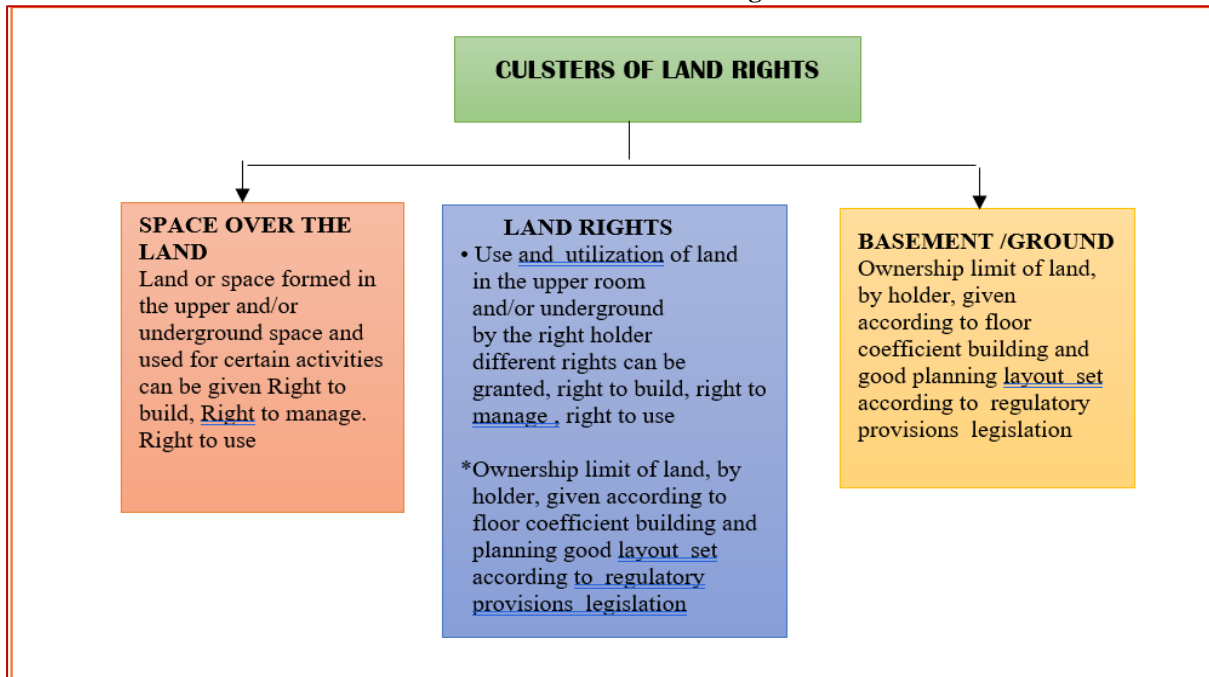
The purpose of establishing the Land Bank Agency is for the public, social and

Purpose of establishing a Land Bank Agency:

1. To collect, manage, develop and distribute land for various interests in the context of creating land justice;
2. The Land Bank guarantees the availability of land in the framework of a just economy for:
 - a. Public interest

- b. Social interests
 - c. Development interests
 - d. Economic equity
 - e. Land consolidation
 - f. Agrarian Reform
3. The Land Bank provides at least 30% of the land owned for the purposes of Agrarian Reform (land redistributio

Table 3 : Clusters of Land Rights



As the Implementing Regulation of the Job Creation Law No. 11 of 2020, then the Minister Agrarian Affairs and Spatial Planning/Head of the National Land Agency issued Government Regulation Number 20 of 2021 concerning Management of Abandoned Areas and Land. For this reason, it is necessary to understand that the classification of land rights includes Space on Land, Land Rights and Underground Space, as described in the table above.

Provisions Concerning Abandoned Land

According to Government Regulation Number 20 of 2021 concerning Abandoned Land, in essence it regulates land inventories, which are carried out by the Minister, in this case the Minister of Agrarian Affairs and Spatial Planning. In Indonesia, there is a lot of land that appears to be neglected and has no owner, or has no owner, it turns out that all of these lands have owners, it's just that they haven't been used.

Start a team formed by the authorities, to search for abandoned lands, data collection on abandoned lands is carried out by the Head of the local Land Office, in collaboration with relevant agencies, including the Lurah or Village Head. Usually there are land mafias who target these lands, then use non-governmental organizations to claim that the land is abandoned land, and report it to the village head or the local village chief. land mafia. Based on the report, the Head of the Land Office will survey the location, and starting with the data, it is considered as abandoned land. Surprisingly, the owner was never notified, suddenly it was designated as abandoned land. This is very untrue and detrimental to the people who own the land, they don't get the land for free, but pay an adequate price, suddenly it arrives at the plot as land that is indicated as abandoned, and enters the Land Bank, and is ready to be distributed among the people who have own no land.

In fact, it is not necessarily distributed, but it is also possible to sell it, because there are many ways for the land mafia to find easy ways to transfer land rights or apply for land rights. Communities who own land, which are categorized as abandoned land, are extremely difficult to take back their land, and require a lot of money to process it. There are many incidents of this in Indonesia, it is possible that the land was not taken care

of by the owner, or was affected by absentee land, or state land because the rights had expired, but were not extended.

If you look at the regulations regarding Agrarian Reform, according to the Presidential Regulation of the Republic of Indonesia Number 86 of 2018, it intends to re-arrange the structure of tenure, ownership, use and utilization of land in a more just manner through Asset Management and accompanied by Access Arrangement for the prosperity of the Indonesian people.

The goals of Agrarian Reform include:

1. Reducing inequality of land tenure and ownership
2. Creating a source of prosperity and social welfare
3. Reducing poverty and creating jobs
4. Improving food security and sovereignty
5. Handling agrarian disputes and conflicts

Agrarian Reform has given rise to the idea of forming a Sustainable Agrarian Management System (SPAB), which is an effort to succeed and encourage the implementation of Agrarian Reform to be effective, efficient, efficient and effective.

Article 33 paragraph 3 of the 1945 Constitution, implemented in SPAB, which are the principles of the Sustainable Development Goals and the principles of the Basic Agrarian Law (UUPA). SPAB can be implemented at the local, regional and national levels, according to the regional order.

The concept of agrarian reform is the process of restructuring (rearranging) the ownership, control and use of agrarian resources (especially land). This agrarian reform has had a huge impact on land, especially with the issuance of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 18 of 2021.

The following is an overview for planning a Sustainable Agrarian Management System which aims to ensure that agrarian resources are distributed and utilized in a just and sustainable manner.

Table 4: Structuring, utilization and utilization, fair



Article 7 of the Job Creation Law:

The object of controlling abandoned land includes property rights, building use rights, business use rights, usufructuary rights, management rights, and rights originating from the basis of land tenure.

Freehold land will be declared abandoned if it is not used and controlled by other parties continuously for 20 years. Meanwhile, other parties who use or make use of the land, if within a period of 2 years it is not used, then the land becomes indicated as abandoned land, except land with customary rights, becomes the property of the Land Bank.

A land bank is a formation of the Job Creation Law, to accommodate confiscated land, and manage it for social, economic interests, and equity.

Criteria for Abandoned Areas and Abandoned Lands:

Abandoned Area :

is a non-forest area that has not been attached to the land rights that already have it business permits, but deliberately not attempted, not used, and/or not utilized.

Abandoned Land :

is land with rights, land with management rights, and land obtained on the basis of land tenure, which is intentionally not cultivated, not used, not utilized, and/or not maintained

Inventory of Indicated Abandoned Areas

Article 7 paragraph (1) Government Regulation Number 20 of 2021

An inventory of abandoned areas and abandoned land is carried out by Heads of Institutions, namely heads of state institutions, ministries, non-ministerial government agencies, provincial regional

Objects of controlling abandoned areas include:

- a. mining area;
- b. plantation area;
- c. industrial area;
- d. tourism area;
- e. large-scale/integrated housing/settlement areas; or
- f. other areas whose exploitation, use and/or utilization are based on business permits related to land and space utilization.

The object of controlling abandoned land includes land:

1. Property rights, if intentionally not used, not used, and/or not maintained so that:
 - a. controlled by the community and become a village area;
 - b. continuously controlled by another party for 20 years without any legal relationship with the rights holder; or
 - c. the social function of land rights is not fulfilled, whether the right holder is still there or not;
2. Building use rights, usufructuary rights, and management rights, if they are deliberately not cultivated, used, utilized, and/or not maintained starting 2 years from the issuance of the rights;
3. Cultivation Right, if intentionally not cultivated, not used, and/or not utilized as of 2 years since the issuance of the right;
4. Land acquired on the basis of land tenure if it is deliberately not cultivated, not used, not utilized, and/or not maintained starting 2 years from the issuance of the land tenure b

The government may not hastily designate an object as an abandoned area or land, but before deciding, it should look for the owner and summon him, to hear the reasons, and first make an inventory of the areas and lands indicated as abandoned.

Legal Protection Theory

Legal protection according to Philipus Hadjon (2002: 287) provides shelter or a sense of comfort for the aggrieved party, with an act of defense, against injustice committed by the authorities. So the ruler may not arbitrarily abuse his authority to make a decision or decree, but must ask for additional information from the public who knows about a case.

Preventive legal protection aims to prevent disputes from occurring, which directs government actions to be careful in making decisions based on discretion, and repressive protection aims to resolve disputes, including handling them in legal institutions.

According to Kuntjoro Probopranoto (1978: 85), in order to enforce the law and provide legal protection for the people against the actions of the government, it is necessary to have a state organ that is given the task and authority to supervise judicial assignments regarding government actions that cause harm to the interests of the people. Oemar Seno Adji by following Fredrich Julius Stahl's thoughts on the rule of law formally stated that in principle and in general all actions involving and detrimental to every person or their rights can be supervised by the Court.

METHODOLOGY OF STUDY

This Study uses qualitative method, that focus on abandoned area and wasteland. Qualitative research involves collecting and analyzing non-numerical data to understand concepts, opinions, or experiences (Pritha Bhandari, 2020). So this method was chosen, because it can analyze the implementation of laws and regulations regarding abandoned areas and abandoned land, with facts on society.

TYPE OF RESEARCH.

Type of research is using normative juridical research. Research with normative juridical type is research that focuses on the study of norms that regulate the problems discussed in the form of legislation and literature books related to the problems studied, so that problems can be resolved.

PROBLEM APPROACHES

The approaches used in legal research are the statutory approach, which is an approach that uses laws and regulations related to the issues discussed and the conceptual approach is an approach that uses the opinions of legal experts as a supporting basis (conceptual approach). With the hope that this approach will provide more accurate results, and can answer legal problems in a concrete and factual manner.

LEGAL MATERIALS

The legal materials used in this paper are Primary Legal Materials and Secondary Legal Materials. Primary Legal Materials are legal materials that are binding in the form of statutory regulations to legal issues relating to abandoned areas and abandoned land. While the secondary legal material is the opinion of experts, doctrine, literature

V. RESULT AND FINDING

Result:

Determination of abandoned areas and abandoned land by the Head of the Land Office in each region is very vulnerable, it is suspected that reports are inaccurate about indications of abandoned land, because the Village Head or Lurah cannot be trusted, especially since the Lurah or Village Head is also the result of a report from a non-governmental organization The community, whose truth is still in doubt, given the many institutions like that, which claim to represent the local community. So far, many government agencies have not performed well, due to the lack of oversight. According to Marbun (2013: 1) Supervision of the Government has a very important meaning, because the development of the concept of a modern rule of law prioritizes the interests of all people. Supervision of the use of power is very necessary, because power holders tend to abuse it, let alone absolute power, it must be misused (power tends to corrupt, but absolute power corrupts absolutely). Therefore, it is necessary to understand, the legal force of a determination.

According to Diana Halim Koentjoro (2004: 63), there are 2 types of provisions, namely

a. Determination containing juridical deficiencies:

This stipulation is valid as a legal stipulation, until one day it is canceled or withdrawn,
Determination containing juridical provisions;

- b. This decision is considered perfect, which is only temporary, because the state apparatus is obliged to make an appeal, not only to investigate the juridical aspect of a decision, but also to consider the policy aspect in making a decision.

This means that a stipulation regarding abandoned land needs to be reviewed from various aspects, not only from the legal aspect, but also from the aspect of justice and wisdom. Without this, the determination of abandoned land needs to be questioned.

Finding.

The Land Office has violated regulations regarding land ownership limits, whereby individual Indonesian citizens may only own 5 (five) plots of land, with a total area of not more than 5,000 M2. The fact is that individual communities are allowed to own more than 5 plots of land, even locations outside the domicile area, can still own them, using a temporary domicile certificate. This is a form of trickery from the Land Office, and the Lurah, without the help of his own apparatus, this would not be possible.

As a result, many owned lands are not utilized optimally, and have not even been taken care of at all for years, so that they become abandoned areas or abandoned lands. This has violated the Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 6 of 1998.

Likewise the regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021, states that each person is only allowed to own 1 (one) plot of land, with a

land area of no more than 2,000 M2. In fact, to this day, the land office has always allowed land ownership for individuals of more than 5 plots, that's why there is so much land that the owners have not utilized, and have even neglected. However, the Government still cannot arbitrarily designate and take these plots of land, because it is the Government that makes mistakes, which results in the disorderly management of landowners.

VI. CONCLUSION AND RECOMMENDATION

Conclusion:

Regarding what has been described above, it can be concluded that the implementation of Government Regulation Number 20 of 2021 concerning controlling abandoned land is not in accordance with the purpose of the regulation, many people are harmed, they have never been spoken to, and have never been notified. The impression is that this determination was unilaterally by the local Land Office, because designation as abandoned land or indications of abandoned land cannot be arbitrary, must be careful and research through

1. Evaluation of abandoned areas and lands;
2. Prior notification to the owner
3. Give warnings to landowners over abandoned areas and lands;
4. If the notification is not responded to, then the Government can designate land that is indicated as abandoned, even this not immediately, but through a long process and given time, the opportunity to manage.

As a result of the designation as abandoned land, the State immediately revokes the business license, and immediately confirms it as an area directly controlled by the State, so that land rights are nullified, the legal relationship between the right holder and the State is broken.

This really does not reflect justice, even though the Government's goal of issuing Government Regulation Number 20 of 2021 is to put things in order and reorganize, so that society gets justice, the fact is that its implementation is not in accordance with the contents and objectives of this regulation.

- a. Elimination of land rights or management rights on abandoned parts;
- b. the termination of the legal relationship between the right holder or management right and the abandoned part of the land;

The Head of the Land Office has violated Article 23 paragraph (3) and (5), and Article 25 of Government Regulation Number 20 of 2021.

RECOMMENDATIONS.

After analyzing and finding answers to the problems, the authors suggest:

1. Government Regulation Number 20 of 2021 needs to be revised, because this regulation was issued as a result of Law Number 11 of 2020 concerning Job Creation, so its implementation is difficult, complicated, and seems forced. As a result, many people are harmed.
2. It is better if the government is not reckless in determining abandoned areas and abandoned lands, it is necessary to really implement Article 15 paragraph (6), Article 17 of Government Regulation Number 20 of 2021
3. The Head of the Land Office really needs to strictly implement:
 - a. Decree of the State Minister for Agrarian Affairs/Head of the National Land Agency Number 6 of 1998 concerning land ownership limits;
 - b. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2016 concerning controlling land tenure;
 - c. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights, Land Rights.
4. There needs to be an independent team supervising the performance of the Land Office in each region, so that it does not arbitrarily designate it as an abandoned area or abandoned land, besides that, to prevent "unscrupulous" Land Offices from cooperating with the land mafia.

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*¹Corresponding Author: Lanny Kusumawati
Faculty of Law, University of Surabaya, in Surabaya, East of Java, Indonesia*