



Legal protection for landowners without certificates in the land acquisition process for The Banda Aceh-Sigli Toll Road

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Abstract

This study examined the extent of legal protection for people who did not have certificates in the land acquisition process for the construction of the Banda Aceh – Sigli toll road and how the principles of land acquisition for the public interest were applied in the land acquisition process for the construction of the Banda Aceh – Sigli toll road. This research is empirical legal research that examines several regulations relating to land acquisition for development in the public interest. Then the facts or events that occurred in the community are connected with data in the field. Data were collected in the field in the discovery process and through observation to get the appropriate information. This study used the case, legislation, and concept approaches. Sources of legal materials in this study include primary, secondary, and tertiary legal materials. The results show that lands that did not have a freehold title got a very low compensation than lands with freehold titles. This shows that lands that do not have a freehold title have less legal protection. The determination of compensation for land rights is carried out unilaterally. Deliberations between landowners and the land acquisition committee did not go well. They could be regarded as a violation of human rights and as a denial of the principles of humanity, agreement, justice, and democracy.

Keywords: legal protection, landowners, certificates, land acquisition

Introduction

One of the goals of the Unitary State of the Republic of Indonesia is to create a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). This is as stated in the second paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely "...delivering the Indonesian people to the front gate of the independence of the Republic of Indonesia, which is independent, united, sovereign, just, and prosperous". A just and prosperous society (realizing social justice and social prosperity for all Indonesian people) will be achieved by implementing development in all fields ^[1], both physical (in the form of infrastructure) and non-physical development, without separating proper and fair rights for the people.

For the implementation of development, especially infrastructure development, the availability of land is one of the constraining factors. This is because "the availability of land is limited and never increases, while the need for land continues to increase, plus the demand for land for development is so great" ^[2]. So for the development, land acquisition activities are needed.

In simple terms, "land acquisition can be interpreted as a form of activity to obtain land." ^[3] According to Article 1 point 2 of Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest, "land acquisition is an activity to acquire lands, which is carried out by providing appropriate and fair compensation to those who are entitled." Meanwhile, according to Article 1 point 6 of the Presidential Regulation of the Republic of Indonesia Number 71 of 2012 concerning the Implementation of Land Acquisition for Development for Public Interest, what is meant by "public interest is the interest of the nation and state, as well as the society which the Government must realize for the maximum benefit of prosperity of the people." This can be understood because the state as the governing body has the authority to move or direct the structuring of the functions of the earth, water, and natural resources contained therein in accordance with the applicable policies, laws, and regulations ^[4].

The term "land acquisition", if analyzed, has a more precise meaning than "land liberation" because it can avoid what is called coercion and threats in the process of releasing land belonging to the people. ^[5] Based on the provisions regarding the definition of land acquisition, it appears that land acquisition is contained in 2 views, namely: a form of activity carried out to acquire land for development for the public interest, but on the other hand, land acquisition for the implementation of development for the public interest is an act to provide everything that is the right of the people, where their land rights are used for development.

Maria S. W. Sumardjono argues that the purpose of land acquisition activities involves the interests of 2 (two) groups, namely: government agencies that need land for development and people whose lands are used for

development activities. The land is a basic human need, just like the implementation of economic, social, and cultural rights. Land acquisition is carried out through a process that ensures there is no "coercion of will" from one party to another. In addition, considering that the people must relinquish their lands for development activities, the government is obliged to ensure the socio-economic welfare of the people so that it does not become worse off from its previous condition. At least it must be the same as the situation before another party took over the land"^[6]. The principles that should be used in the land acquisition process for the implementation of development in the public interest are:

"The principle of humanity, the implementation of land acquisition is obliged to provide protection and uphold Human Rights (HAM), honor, and human dignity as citizens and people of Indonesia as a whole;

The principle of agreement, the principle of agreement is important because all activities in the land acquisition process are made with the consent of the parties who need the land and the owners of land rights;

The principle of expediency, the land acquisition is expected to positively impact those who need land, the community as landowners, and other communities in general. All members of the community may enjoy the benefits obtained from these development implementation activities;

The principle of justice, the government in providing compensation for the community as landowners affected by land acquisition, must improve their socio-economic conditions. The provision of compensation is at least the same as the initial condition by respecting the losses suffered by the community, both physical and non-physical losses; The principle of certainty, the land acquisition process is carried out based on procedures or mechanisms of applicable laws and regulations so that the parties already understand their respective rights and obligations;

The principle of openness, in the process of land acquisition, the affected community must obtain an explanation of the impact of the development project; The principle of participation, the land acquisition process, starting from planning, implementation, and evaluation, requires the participation of all stakeholders so that all parties have a sense of ownership and can reduce community conflicts over the activities carried out; the principle of equality, in the land acquisition process, it is hoped that there will be a sense of equality between the parties who need the land and the community members whose land is affected by the land acquisition project. So that it can reduce the impact and in the continuity of the socio-economic welfare of the community;

The principle of welfare, the land acquisition can provide more value for the survival of the community, both economically and socially; The principle of sustainability, through the land acquisition process, the implementation of development can run sustainably to achieve the desired goals."

Based on these principles, in the process of land acquisition for the implementation of development for the public interest, the government is obliged to guarantee the socio-economic welfare of the community so that it does not become worse off from the previous condition. In addition, the development carried out should be beneficial for the community and can provide added value for the community's survival. This is because "the development activities are essential to improve the welfare of people."^[7] So that the aspired fair and prosperous society can be realized as expected.

Land acquisition for the public interest in its implementation often causes problems. This can be understood because "development for the public interest requires a fairly large area of land, while land controlled directly by the state is minimal or very limited. So that to meet the need for land, the release of rights to land owned by the community needs to be carried out"^[8].

The release of land rights "either directly or indirectly is an act of releasing the legal relationship that is bound between the owner of a land right or the ruler of the land by providing compensation to the party entitled or the ruler of the land"^[9]. Land acquisition for development in the public interest is carried out through several stages, namely, the planning, preparation, implementation, and result submission stages. At the preparation stage, problems often occur due to objections from the entitled party or the people whose lands are subject to land acquisition on the location determination issued by the Governor^[10].

In addition, another problem that occurs in almost all land acquisition processes for development in the public interest is the unreasonable compensation price set by the land acquisition committee. Article 1 point 2 of the Land Acquisition Law has previously emphasized that land acquisition is carried out by providing appropriate and fair compensation to those entitled.

Appropriate compensation can be obtained from an assessment by the Public Appraisal Service Office (KJPP) based on the development of land prices. Thus, all parties can accept "compensation payment without coercion. However, in reality, people who own land do not always agree if their land rights are released to institutions that need land for development purposes. The main reason is that the compensation given by the agency that needs the land is considered inappropriate and unfair to the people who own the land. The absence of an agreement between community members and the agency that requires land will usually lead to disputes that continue to the judicial process"^[11].

Currently, the Government is carrying out the construction of toll road transportation infrastructure from Banda Aceh to Binjai. "The construction of the toll road is one of the government's efforts to make it easier for the community to shorten travel time, and no less important is that the construction of the toll road is expected to increase the community's economy. This toll road was built with a total length of 455 km which is divided into 4 (four) roads, namely: Banda Aceh - Sigli toll road with a length of 74 km, Sigli - Lhokseumawe toll road with a length of 135 km, and Lhokseumawe - Langsa toll road with a length of 135 km and the Langsa - Binjai toll road segment is 110 km long. The construction of the first toll road is carried out on the Banda Aceh - Sigli toll road segment. This toll road is the first toll road built in Aceh Province"^[12].

As a stage in the land acquisition process in the toll road construction area, at the end of 2018, the implementation of the land acquisition had begun. The implementation began by providing compensation to the people that own the land affected by the land acquisition project to construct the Banda Aceh - Sigli toll road. However, the whole process did not go smoothly; there was still no agreement between the landowner and the government at the land acquisition stage. Some people who own land “do not want to give up their land rights to government agencies, this is because the compensation set by the government is meager, so it does not match the land price benchmark on the market.” A total of 23 (twenty-three) people in 4 (four) villages (gampong) from Montasik and Blang Bintang Subdistricts, Aceh Besar, filed a lawsuit to the Jantho District Court regarding the issue of compensation for the construction of the toll road. “People do not accept that their lands are paid at a low price of Rp. 12,000 (twelve thousand rupiahs) to Rp. 45,000 (forty-five thousand rupiahs) per meter”. The registration of the objection petition was carried out by the Banda Aceh Legal Aid Institute (LBH). In this case, the people sued the Head of the National Land Agency (BPN) of Aceh Province as the Head of the Land Procurement Executor.

The problem regarding compensation for land acquisition has arisen since the community meeting with the land acquisition committee on August 29 and 30, 2019. At that meeting, the public should have obtained certainty regarding the price or the parameters of an open assessment. However, the opposite happened in the meeting, “The land acquisition committee only provides a resume of assessment for each land price, with the amount of compensation value that has been written unilaterally. Then the people who came one by one were called to the front to be shown the assessment resume without being given a copy. The committee also asked the public to sign a receipt for the assessment resume. After that, people are allowed to go home. A few days later, at a meeting held at the Development Work Area Unit (UDKP) of Blang Bintang sub-district office, Aceh Besar regency, the people were asked to provide signatures stating that they agreed or disagreed with the compensation that would be given on the form prepared by the implementing committee. The people at that time were not given the right to obtain open, clear, and complete information. The explanation shows that the meeting that took place at the end of August and mid-September 2019 cannot be called a deliberation because it did not show the purpose of dialogue, namely, to reach an understanding between the two parties”^[13].

Based on an interview with Rahmat Angkasa, a resident of Suka Makmur Village, Blang Bintang Subdistrict, he explained that “his land area of 6,730m² is valued at Rp. 15,000 per meter because the Land Acquisition Committee has set a price of Rp. 12,000 to Rp. 20,000 per meter. Meanwhile, the market price of land in the area has reached Rp. 200,000 to Rp. 600,000 per meter. Therefore, he hopes for defense from the Aceh People's Representative Council (DPRA), but no measure has been taken to defend the people. People who refuse to relinquish ownership rights to their land will be directed to the courts to take legal action which in the end the community will also lose.”

The factor that causes the community not to accept the price decision from the committee is “the lack of compatibility between the values interpreted by the government through the Public Appraisal Service Commission (KJPP) and the land they want to acquire. This is because the people affected by the toll road construction project only have the statement of claim for de facto possession of land, deed of sale and purchase, and land certificates. The amount of compensation received is different from that with certificates. However, several people who have certificates have also filed a lawsuit against the Jantho District Court because they think the price paid by the government is still far from the market price.”

There are comparisons from different locations affected by land acquisition for land procurement for the Banda Aceh - Sigli toll road, including Baitussalam and Darussalam Sub-district, Aceh Besar Regency. The people in these 2 (two) sub-districts did not file a lawsuit because most of the people had certificates as the basis for land rights so that they received a decent compensation fee. Furthermore, the people of Baitussalam and Darussalam sub-districts view that “the lawsuit related to the problem of land compensation submitted to the Jantho District Court entirely failed in the trial. Therefore, people in the sub-districts consider not suing because they reflect on the failed lawsuit, and most of them are still unfamiliar with the judicial process. They accept the compensation fee provided by the government”.

Based on the results of the study, it was found that in the land acquisition process for the construction of the Banda Aceh – Sigli toll road, there were 25 lawsuits submitted to the Jantho District Court, Aceh Besar Regency, which came from 2 sub-districts, namely Blang Bintang and Montasik. Of the 25 lawsuits, two were rejected by the judge because the plaintiff did not provide an appraiser from the Public Appraisal Service Commission (KJPP) as a counter to face the defendant (because the issue is the compensation fee). Meanwhile, 23 other lawsuits were not accepted by the judge due to the lack of parties in the lawsuit. This is based on the Regulation of the Supreme Court Number 3 of 2016 concerning “Procedures for Filing Objections and Depositing Compensation to the District Court in the Procurement of Land for Development for the Public Interest.” Article 6 paragraph (1) letter b states that “identity of the objected respondent contains: The name and domicile of the Regional Office of the Provincial National Land Agency or the Regency/City Land Office and the name and domicile of the agency requiring land. So, the 23 plaintiffs only sued the Head of the Regional Office of the Aceh Province National Land Agency without suing the agency that required the land, in this case, the Ministry of Public Works and Public Housing (PUPR). This is the judge's consideration not to accept the claim from the objection applicant”.

Based on the description above, this research examines the extent of legal protection for people who do not have certificates in the land acquisition process to construct the Banda Aceh – Sigli toll road and how the principles of

land acquisition for the public interest are applied in the land acquisition process for the construction of the Banda Aceh – Sigli toll road. Other articles related to the problem under study include: "Legal Protection for Landowners in the Context of Procurement of Land for the Market Development in Medan Marelan Sub-district", researched by Andreas Jonathan Siregar. The research problems were whether the landowner had received legal protection in the land acquisition process, criteria and factors determining the public interest in the land acquisition, and the compensation given to the landowner in the context of land acquisition.^[14] Based on the research results, it was found that "landowners have received legal protection in the land acquisition process for market development in Medan Marelan Sub-district in accordance with Law No. 2 of 2012. The criteria for public interest are for the interest of the nation and state, public services and the wider community. In addition, the development is owned by the government, and it is not used for profit.

The research entitled "Mechanism of Compensation for Land Procurement in the Construction of the Banda Aceh-Sigli toll road, Blang Bintang Sub-district" was conducted by Risky Andrian and Ubaidillah. The problem of the study was that "the policy on land acquisition for development for the public interest with compensation during the construction of the Banda Aceh - Sigli toll road is still problematic because the price offered by the Public Appraisal Service Commission (KJPP) was considered very cheap. Consequently, it was rejected by the public".^[15]

Furthermore, Desi Apriani and Arifin Bur's research entitled "Kepastian Hukum dan Perlindungan Hukum dalam Sistem Publikasi Pendaftaran Tanah di Indonesia (Legal Certainty and Legal Protection in the Land Registration Publication System in Indonesia)". The problem was that "this negative publication system is considered by some not providing legal certainty for certificate holders because many think that the negative publication system is not as ideal as the positive publication system implemented by developed countries. This is because the negative publication system is considered to lack legal certainty, so that it can cause disputes. Therefore, it is necessary to conduct an in-depth study on the land registration publication system in terms of legal certainty and legal protection as the objectives of the land registration."^[16] The difference between this research and the research above is that this research focuses on legal protection for landowners, especially for those who do not have a land certificate in land acquisition for the construction of the Banda Aceh – Sigli toll road, where landowners who do not have certificates receive less legal protection. Meanwhile, Andreas Jonathan Siregar's research provides legal protection for all lands in the land acquisition process. The results of his research show that the landowners have received legal protection in accordance with Law No. 2 of 2012. Furthermore, Risky Andrian and Ubaidillah focused on the mechanism applied by the government regarding the compensation issue. Moreover, the research of Desi Apriani and Arifin Bur focused on government policies on land registration in Indonesia. Thus, this research is different from the previous research.

Research Methodology

This study used an empirical legal research method to examine several regulations relating to land acquisition for development for the public interest. Then the facts or events that occur in the society are connected to the data in the field, which is used as the primary material. Data were collected by going directly to the field in discovery, experimentation, and observation to get the appropriate information to be studied. This study used a case, legislation, and concept approach. The first source of legal materials in this study included primary legal materials. The data were directly obtained from the first data source of the research or research object^[17] obtained directly from the field. The second source includes secondary data obtained from the second source.^[18] This was done by collecting several laws relating to land acquisition, books as a basis, and theories for collecting data related to the object of this research. The data collected in this research were from field research. The information obtained comes from informants, literature review, direct interviews, and documentation. After collecting some facts, the researchers conducted a data analysis process. Data analysis conducted was a follow-up to the data processing process, which is the work of a person who carries out research and optimal outpouring of thinking power^[19] so that the author can draw conclusions.

Results and Discussion

Legal protection for those who do not have land certificates

One of the main objectives of issuing the Basic Agrarian Law (UUPA) is to provide legal certainty to all people regarding land ownership. Based on Article 19 paragraph (2) of the Basic Agrarian Law, land registration by "providing a certificate to the landowner is valid and strong evidence supported by a legal certainty and legal protection. Land registration activities lead to issuing certificates containing physical and juridical data on the land."^[20] Furthermore, according to Government Regulation No. 24 of 1977 concerning Land Registration, "in the land rights certification system, certificates are strong evidence for land ownership. This provides proof that a plot of land belongs to a person whose name is listed in the certificate"^[21].

In connection with this, Yustisia Setiarini Simarmata added that "a certificate of land rights is the strongest and most complete evidence for land ownership that an Indonesian citizen can own. The logical consequence of land registration is the ownership or juridical control over a plot of land followed by physical control of a plot of land"^[22].

Through land certificates, the landowners will be protected by law. However, there are still many land ownership with weak legality in practice. Likewise, in land acquisition for development for the public interest, many people do not register their land ownership or do not have certificates as the basis for legal ownership of a parcel of

land. As a result, the compensation fee paid to the landowners who do not have certificates will be cheaper than to the landowners who have certificates, even though there is no provision stating that compensation for lands that already have land title certificates is higher in value compared to lands that do not have certificates. For more details, the following states the number of owners or holders of land rights whose lands are affected by the land acquisition project for the construction of the Banda Aceh – Sigli toll road and filed a lawsuit to the Jantho District Court along with the basis for ownership or control over the land.

Table 1: Owner/Holder of Land Rights in Land Procurement for the Construction of the Banda Aceh – Sigli toll road who filed a Lawsuit to the Jantho District Court

No.	Objection Petitioner (Plaintiff)	The Basis of Ownership or Control of land
1	Teuku Sulaiman	Freehold Title 66/2021
	Abdullah Ahmad	Freehold Title 1/1989
	Islahuddin	Statement of claim for de facto possession of land (got from a grant)
	Zakaria	Statement of claim for de facto possession of land (got from a grant)
	Suriadi	Statement of claim for de facto possession of land (got from a grant)
	Rita Zahara	Certificate of Sale and Purchase (not a deed)
2	Manjuria M Amin	Freehold Title 00083/2017
3	Zainal Abidin	Deed of sale & purchase
4	Suparman Daud	Freehold Title
5	Zubir Syahputra	Deed of sale & purchase
6	Kamaruzzaman	Statement of claim for de facto possession of land
7	Aminah	Deed of sale & purchase
8	Mawardi IBR	Statement of claim for de facto possession of land
9	Zaki Bunayya	Certificate of Sale and Purchase (not a deed)
10	Noviadi	Certificate of Indemnity
11	Dra. Badriah	Deed of sale & purchase
12	Budi Setiawan	Deed of sale & purchase
13	Azhar Muhammad	Deed of sale & purchase
14	Salahuddin	Deed of sale & purchase
15	M. Nur	Statement of claim for de facto possession of land Freehold Title
16	Basri	Freehold Title
17	Alauddin	Statement of claim for de facto possession of land
18	T. Zulfikar	Freehold Title
19	Patius Yunus	Certificate of Sale and Purchase (not a deed)
20	Adli Sulaiman	Statement of claim for de facto possession of land
21	Razali	Statement of claim for de facto possession of land
22	Teuku Kemala	Certificate of Sale and Purchase (not a deed)
23	Rahma Yanti	Statement of claim for de facto possession of land
24	Ansari Raja	Statement of claim for de facto possession of land
25	M. Yakob	Statement of claim for de facto possession of land

Data source: Regional Office of the National Land Agency of Aceh Province, 2021.

The table above shows that there were 25 (twenty-five) lawsuits submitted to the Jantho District Court, with a total of 30 (thirty) plaintiffs. The plaintiffs filed the lawsuits because, according to them, the compensation fee provided was too low, inappropriate, and unfair. The compensation, especially for lands that do not have land certificates, is low; on the other hand, those who already have certificates have appropriate and fair compensations. Although several plaintiffs already had a Freehold Title (SHM) and received high, appropriate, and fair compensations, they still filed a lawsuit to the Jantho District Court, asking for a higher compensation fee. "They did it just to try and follow along with their family members or friends, and who knows, the judge will grant it." Meanwhile, for people who do not yet have a Freehold Title, the documents that are used as proof for land ownership in providing compensation for land acquisition for the construction of the Banda Aceh – Sigli toll road are as follows:

Statement of claim for de facto possession of land (*Sporadik*)

Sporadik is "a statement letter made personally by the landowner or the person controlling a plot of land with the knowledge of the village head or *lurah* (local urban village head)." [23] It is intended to prove that the person concerned is the owner or person who controls the plot of land. Usually, someone makes a *sporadik* if he intends to register the land or transfer the land's rights to another party.

Thus, "*sporadik* is a one-sided claim explaining that someone physically occupies or controls a piece of land, but the *sporadik* has not been officially recognized by the State. The state recognizes the land ownership after issuing a land certificate while *sporadik* is just a statement from the landowner."^[24] *Sporadik* is an indispensable letter when someone owns the land but is not supported by other documents proving the ownership. As Adli

Sulaiman said, he inherited the land from his parents decades ago. Because the land has been distributed in a familial way, it does not have documents proving its ownership. When his land was affected by the land acquisition project for the construction of the Banda Aceh – Sigli toll road, he made a statement of claim for de facto possession of land (*sporadik*).” Likewise, “in the land registration, *sporadik* is the first step for people who want to register their land to get a certificate. *Sporadik* is useful as a strong basis for the people to confirm that they already own a piece of land. *Sporadiks* are made personally and are known to the local urban village heads and village heads”^[25].

“Legal protection on *sporadik* or land controlled with *sporadik* can be carried out through the land registration process, which aims to obtain legal certainty and legal protection for land rights holders. The land rights holder will get a land rights certificate to prove land ownership right with land registration.^[26] This is clear because “land registration provides legal certainty regarding the person or legal entity as the subject of the holder of land rights and certainty about the object of land rights, such as the location, length and width or the total area of the land parcels”^[27].

In the land acquisition process for constructing the Banda Aceh – Sigli toll road, there were 25 lawsuits, with 30 people objecting to improper and unfair compensation. The objection was submitted to the Jantho District Court, and of the 30 people who filed the objection, 12 (twelve) of them owned the lands using *sporadik*.

Sale and Purchase Deed

Sale and Purchase Deed is an “authentic deed made by Land Deed Official (PPAT) to transfer land and building rights”^[28]. “Sale and Purchase Deed usually only exists when the sale and purchase transaction of land and building rights is carried out. Sale and Purchase Deed is an authentic deed or document made by Land Deed Official in the event of a transfer of rights to land and buildings”.^[29] Sale and Purchase Deed is the cause of a legal act of buying and selling rights to land and buildings. Thus, the Sale and Purchase Deed is proof that the legal act of buying and selling has taken place.

Sale and Purchase Deed is made “by and before an authorized official based on a form that a statutory regulation has determined. So that Sale and Purchase Deed has perfect evidentiary power regarding legal actions in the form of buying and selling carried out by the parties”.^[30] As a result of the Sale and Purchase Deed issuance, land rights are transferred from the seller to the buyer. The buyer has the right to use or cultivate it himself or to transfer it to another party through certain legal actions, such as selling, giving, endowing, mortgaging, renting out, including sharing the proceeds with other parties or used as collateral.^[31]

Thus, someone who owns a piece of land whose basis is the Sale and Purchase Deed, then legally the person concerned is the owner of the land, because legally it can be proven by an authentic deed (Deed of Sale and Purchase) that the person concerned legally obtained the land. In acquiring land for the Banda Aceh – Sigli toll road construction, compensation must be appropriate and fair, just like the landowners who have land certificates. However, in reality, of 25 lawsuits from 30 people who filed objections about improper and unfair compensation, 7 (seven) of them had Deed of Sale and Purchase as the basis for their control over the land.

Certificate of sale and purchase of land

A certificate of sale and purchase of land is a letter that states a written agreement between the seller and the buyer in a sale and purchase transaction of land rights. The sale and purchase certificate is made by the parties, namely the seller and the buyer, in the presence of witnesses, both from the seller's own family and from other people, sometimes with the knowledge of the Village Head (Keuchik). The sale and purchase certificate is a private letter because it is not made in the presence of an authorized official such as the Land Deed Officials (PPAT).

In practice, a certificate of sale and purchase of land is often used as evidence that the land already belongs to the buyer and the buyer has full control over the land. As stated by Teuku Kemala, “he owned the land more than 40 (forty) years ago. He bought it from someone with only an underhand letter witnessed by 2 (two) people from the buyer's family and with the knowledge of the Village Head (Keuchik)”. Likewise, in acquiring land for constructing the Banda Aceh – Sigli toll road, several community members submitted a certificate of sale and purchase of land as proof of ownership of their land. In this case, 25 lawsuits of 30 people who filed objections regarding improper and unfair compensation, 4 (four) of them used a certificate of sale and purchase of land as the basis for control or ownership of the land.

Application of Principles of Humanity, Agreement, Justice and Democracy

The Principle of Humanity

In addition to having a value that can be calculated, the land also has a social value for anyone who can own it. A person's right to a plot of land is not his forever. However, the state must respect the rights granted to its citizens on land protected by law. In the process of land acquisition for development for the public interest, principles of humanity must be applied to respect the moral norms of the landowner community. This is in accordance with the provisions of Article 2 of the Land Procurement Law, which states that “one of the principles in land acquisition for the public interest is the principle of humanity, where land acquisition must be able to provide protection and respect for human rights, the dignity and worth of every citizen and resident of Indonesia proportionally”.

Thus, not applying the principle of humanity is the same as not respecting Human Rights (HAM), where the government should act as if it were in the position of the people to feel what people want and avoid. There is no unilateral decision so that no party feels aggrieved. In the case of land acquisition for the Sigli - Banda Aceh toll road, it can be said that it is not entirely in line with various instruments related to human rights. "With a broad understanding of public interest, the government is free to interpret whichever land will be the object".^[32] During the deliberation process, the government "only provided a resume that had been filled out unilaterally and not giving people the rights to give an opinion or consent" was considered to have violated human rights because it made people feel compelled to agree. In the resume, the government should have provided space for the community to determine the price of their land and the reasons to realize the deliberation based on the principle of humanity and one-way communication. In accordance with the definition of the deliberation itself, namely "an activity in which there is a process of listening to each other, sharing and accepting each other's opinions or encouragement to get an agreement on the amount and form of compensation or other problems related to land acquisition for development in the public interest"^[33].

Based on the description above, it can be explained that the deliberation between the landowner and the land acquisition committee did not go well. In this case, the determination of compensation for land rights is carried out unilaterally. Whereas in Article 37 of the Law on Land Procurement, it is emphasized that "The Land Agency conducts deliberation with the entitled party. The results of the agreement in the deliberation become the basis for the provision of compensation and are included in the minutes of the agreement. Therefore, the determination of compensation carried out unilaterally can violate human rights and deny the principle of humanity as referred to in Article 2 of the Land Acquisition Law.

Principle of Agreement

The principle of agreement is one of the principles in land acquisition for development in the public interest and is closely related to the humanitarian principles described above. If the principle of agreement is not implemented properly, the principle of humanity will undoubtedly be denied. The agreement in the land acquisition process is obtained through the implementation of deliberation between the entitled parties and the land agency.

Based on the research results, it is known that in land acquisition for the construction of the Banda Aceh – Sigli toll road, the agreement as referred to above was never obtained because deliberation as a means to reach an agreement was never implemented. This is as emphasized in Article 37 of the Land Procurement Law, which states that "the results of the agreement in the deliberation form the basis for providing compensation and are included in the minutes of the agreement". Thus, the community felt compelled to agree because the agreement was never obtained. The result is that "the amount of compensation given to the entitled party is determined unilaterally, not based on mutual agreement." So that problems arise in the community, even to the point of being brought to court because the compensation given is not appropriate and unfair.

The agreement is essential in providing compensation in land acquisition activities because all activities carried out in the land acquisition process are based on the agreement of the parties (the party who needs the land and the landowner). The agreement is, of course, obtained based on the deliberation of the parties. On the other hand, it can be said that if the deliberation does not go well, then an agreement will never be obtained. Thus, if the determination of compensation is carried out unilaterally, then it can be said as coercion and is a form of human rights violation.

Principles of Justice

Indonesia is a developing country that uses a legal footing in each development. Aristotle stated that "the rule of law is a state based on the law which guarantees the upholding of justice for every citizen."^[34] The realization of development is the government's responsibility and the responsibility of all Indonesian citizens. Therefore, the feeling of responsibility of the community for the results of the development that has been obtained must be raised by including the community fairly. If the community surrenders their land rights to the State, then the surrender must be accompanied by a sense of sincerity to realise the implementation of development. However, the government is also urged to implement regulations in accordance with all the contents of the legislation, such as those stipulated in the Land Procurement Law.

In order to achieve justice for the parties from the preparation stage to the stage of delivering the results, "the principle of justice encourages the government to provide appropriate and fair compensation to those who are entitled to it so that people can get hope again to continue their life."^[35] In the case of land acquisition for the Sigli - Banda Aceh toll road, it appears that the government, through the assessment team from the Public Appraisal Service Commission (KJPP), did not apply the principle of justice in determining the amount of compensation for the landowners. This is reflected in the price estimated by KJPP, which is not in accordance with the wishes of the landowner community. When KJPP conducts a land survey, all people whose land rights will be released can be included so that there is an escort process from the community itself so that people know why their land is valued like this and why other lands are like that. By doing so, the application of the principle of justice in land acquisition for the Banda Aceh - Sigli toll road can go well. The principle of justice encourages the government to be fair to the people. With the appraisal team as a public user service, it is expected to provide clear information about why a land object is valued in such a way to the public. So that there is no doubt for the public, let alone put a sense of suspicion and negative assumptions to the government.

In implementing the principle of justice, the government in providing compensation for the community as landowners affected by land acquisition must improve the people's socio-economic conditions. At least the compensation is the same as the initial situation, by respecting the losses suffered by the community, both physical and non-physical losses.^[36] However, in reality, in the case of land acquisition for the Sigli - Banda Aceh toll road, compensation for landowners who do not have certificates is very low, ranging from Rp. 12,000 (twelve thousand rupiahs) to Rp. 45,000 (forty-five thousand rupiahs) per meter². The compensation would not improve the socio-economic conditions of the people affected by the land acquisition project for the construction of the Banda Aceh – Sigli toll road.

Principles of Democracy

Compensation can be interpreted as replacing the losses suffered by the community because of their land rights being released for the public interest based on the general price in a particular place. Therefore, the government must pay attention to the interests of the people whose land is affected by the land acquisition project. Public Appraisal Service Commission (KJPP), an institution authorized by the state to assess the compensation price for land, buildings, and plants, based on deliberation to reach an agreement between the two parties, should be able to use the general price where the land is located so that there is no price gap and consider the factors that affect the price of the land.

In the land acquisition project for the Banda Aceh - Sigli toll road, it appears that "the community is not given adequate space to provide opinions, express aspirations, or complain in the deliberation to determine the compensation."^[37] This does not reflect the principles of democracy that uphold freedom of speech and opinion. The principle of democracy gives "rights or authorities to all citizens to participate in making the desired decisions, which can change the standard of living together to realize common interests with the same goal. With democracy, it is possible for every citizen to participate, either directly or through his representatives."^[38] Thus, it is clear that in the process of giving compensation to the community whose land was affected by the land acquisition project for the construction of the Banda Aceh – Sigli toll road, the government ignored the principles of democracy by not providing opportunities for the community to express their opinions and fighting for their fate for a better life.

Conclusion

The land issue is the most fundamental issue that alludes to the rights owned by the community. Because it has a function that is common to the whole community, private interests in land can be revoked. The land acquisition problem is perilous because the land is a basic need for human life. From the government's point of view in needing land, it can be understood that land owned by the state is limited. Thus, only by carrying out land acquisition is the only way that can be taken for development to take place. The state has the right to control land, which means organizing and regulating land, not ownership of land rights. Land acquisition under the pretext of being in the public interest is indeed allowed both by regulation and law. However, the government should not marginalize the rights that the community deserves. Generally lacking in communication is the basis of the problem. The government considers it strong enough to carry out its duties based on regulations and laws. However, it should be noted that when the stages of the land acquisition process apply the principles of humanity, justice, and democracy, the situation will be easier for the government and especially for the community.

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