

Compensation for land for the construction of the Medan-Tebing Tinggi toll road in 2013

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Abstract

Road Infrastructure Development Projects not only serve to facilitate and accelerate access to communities everywhere but also as a means to stimulate economic growth and tourism in a region. In the process of liberation of rights, landowners must be given a sense of justice and legal certainty in paying losses fairly and in accordance with the procedures regulated by law. For that I raised the title of the research "Compensation of Land Construction Road Tol Medan-Tebing High Year 2013" to understand the legal protection that Pemkot has in acquiring land and the mechanism of solving the problem of land acquisition. The types of research used are normative juridic and qualitative descriptive. Techniques of data collection through interviews and observations and libraries. The data is collected and analyzed qualitatively. According to paragraph 2, no. 2 In 2012, the legal protection in land acquisition for the public interest includes the provision of fair and fair compensation to the legal party. Articles 17 and 18 of Kepres No. 36 of 2005 regulate the determination of damages. In accordance with the Law No. 2 of 2012, the process of procurement of highway tolls Field-Tebing began.

Keywords compensation, land, toll road construction

INTRODUCTION

Land is really needed by humans and has an important meaning because the existence of land influences and determines human life. Human life on earth cannot be separated from land, it can even be said that it is very difficult for humans to live without land, although elements of human life on earth are also influenced by many other factors. Human need for land is increasing so rapidly while land supplies are very limited. Land has four strategic roles in various areas of human life: economic, political, legal and social. This aspect is an important issue in government policy.

As regulated in Article 2 of Law No. 5 of 1960, the state has the authority to regulate the distribution and use of land available in its territory. The authority given by law to the government as a state administrator is to pawn land for public purposes. If an activity is considered for public purposes, then that activity must be in the hands of the state. As a result, the state proactively and obligedly participates in fighting for justice.

The goal of Indonesia's development is to increase the welfare of all Indonesian people, in accordance with the mandate of the Preamble to the 1945 Constitution of the Republic of Indonesia. Thus, the Government continues to carry out development in all fields, including development that is beneficial to society. Land is an important element for the success of development for the benefit of society. But the problem is the amount of land the state owns. Therefore, in order to meet land needs, the government has begun to pawn land from individuals or legal entities who own it.

As a result, the government began to take action. According to Law no. 2 of 2012, correct compensation is deemed to be in accordance with established procedures; Law,



assessment team (appraisal) and the deliberation process, this method is a series that cannot be skipped in the positive legal system and local wisdom of Indonesian society which is based on Pancasila where the Indonesian State is a country based on Pancasila which is seen as the source of legal sources. .

Justice in land procurement for public purposes can be measured by: (1) Being able to restore the social and economic status of people who have rights by providing compensation at least equal to their position before their rights were revoked or relinquished; (2) Providing land to parties who need it; (3) Justice provided by law must be equal to all parties.

Development is a means of improving infrastructure, as stated by Kamilah, namely that economic development helps improve community welfare through optimizing state assets in preparing adequate public facilities that can be accessed by the entire community, such as infrastructure, public services and government functions.

The toll road infrastructure development project, apart from facilitating and accelerating public access to a place, is a means of increasing economic growth and tourism in an area. In the process of relinquishing rights, land owners must be given a sense of justice and legal certainty in paying losses fairly and according to procedures regulated by law. For owners of land rights who are affected by planned activities in accordance with PP No. 58 of 2017, this must be done as fairly as possible and given legal certainty. The main focus of this study is the settlement of compensation for land pawning in the construction of the Medan-Tebing Tinggi toll road in 2013 by interviewing several people who experienced land pawning in 2013.

Based on the description, what will be discussed is how the community receives legal protection and the mechanism for resolving land acquisition problems. This aims to determine the legal protection received by the community for the acquisition of their land for the construction of the Medan-Tebing Tinggi Toll Road and to find out the mechanism for resolving the land acquisition problem.

Based on the results of literature research carried out, several previous studies were found that discussed the same legal issues as this research, namely research by Ramadani Dimas Pamungkas, et al with the title "Providing Compensation by the Government Due to the Construction of the Kediri-Tulungagung Toll Road" this research analyzes rights. as well as the social/economic impact of land eviction. This research is classified as normative law. The results obtained were that people who experienced eviction were placed in flats. The difference with this research is that the main focus of Ramadani Dimas Pamungkas, et al.'s research is on building evictions and the fate of the people who experience it, whereas this research's main focus is on the mechanism and protection obtained.

The second research by Azarine Nuratna Shafa and Endang Pandamdari with the research title "Providing Compensation for Toll Road Construction in Ogan Ilir Regency" this research analyzes whether the provision of compensation is appropriate and whether the cassation decision Number 701 K/Pdt/2021 is appropriate. This research is classified as normative legal research. The results of the research were that compensation was not provided according to the principles of agreement and openness. The difference with this research is that the main focus of Azarine Nuratna Shafa and Endang Pandam's research is

the cassation decision Number 701 K/Pdt/2021, while this research's main focus is the mechanism and protection obtained.

METHOD

The type of research method that will be applied is normative juridical which uses primary material sources such as statutory regulations, court decisions, legal theory, opinions of scholars to study documents, as well as the results of interviews obtained as the approach method. This method then involves legal examination, both through literature research and examination of laws relating to its implementation. The data collection method is through interviews and observations, and the literature is then analyzed qualitatively. This qualitative data is data in the form of words which usually discuss laws and regulations and the pros and cons by explaining general facts by drawing conclusions that have special characteristics in making suggestions from what has been explained in sentence form.

RESULTS AND DISCUSSION

Legal Protection Received by the Community for Procuring Their Land for the Construction of the Medan-Tebing Tinggi Toll Road

The Medan–Kualanamu–Tebing Tinggi Toll Road, abbreviated as MKTT, is a highway with a length of 61.80 km that connects Medan, Tebing Tinggi and Kualanamu International Airport. This highway was built in two stages, namely: (1) Medan-Kualanamu 17.80 km, (2) Perbarakan-Tebing Tinggi 44 km. At this stage, the planned highway speed is 100 km/hour. President Joko Widodo inaugurated the Parbarakan-Sei Rampah Road on October 13 2017. On June 11 2018, the Governor of North Sumatra, inaugurated the road from Tanjung Morawa-Kualanamu. The corridor connecting Sei Rampa- Tebing Tinggi was opened to the public on March 25 2019.

The governments of Deli Serdang Regency and Serdang Bedagai Regency in North Sumatra are responsible for the construction of the toll road. Jalan Jol crosses many villages and sub-districts in Deli Serdang Regency, North Sumatra. The planned cross and border roads are more than 25,514 kilometers long, and there will be approximately 1,583,813 square meters of land to be acquired. In land acquisition activities, the following things must be met, such as location, land procurement committee, identification, inventory, and results that must be announced. Next, a land assessment team was formed, held deliberations, staged compensation payments, compensation protection, and land handover. The Committee's assistance is needed to make all the matters that will be carried out easier. Therefore, the Deli Serdang Regency government and the Deli Serdang Regency BPN must participate in it.

This legal protection focuses on the stages of providing appropriate and fair compensation in accordance with article 1 point 2 of Law No. 2 of 2012. Therefore, the basis and method for calculating the amount of compensation that must be given must be established. Owners of land rights are legally protected when government agencies that need the land buy the land. In his book, Philip M. Hadjon uses Dutch terms to explain the concept



of legal protection for the people. Apart from that, it is stated that preventive and repressive protection is also protection that the people receive.

The preventive legal protection referred to is that people are given the opportunity to voice their income, known as *inspraak*, before the government's decision becomes a legally binding decision. Therefore, this legal protection aims to avoid disputes, while repression aims to resolve disputes. This legal protection is really needed in government actions based on freedom of action so that it can encourage the government to be careful when making decisions based on their own choices.

The function of law that can guarantee justice, order, certainty, profit, peace and tranquility for all human needs in society is called legal protection. The amount of compensation related to land is not too difficult to determine during the process of acquiring the land for public purposes. However, the problem that often arises is determining the amount of compensation. Land rights holders and the government in need must fulfill an agreement regarding the amount of compensation that must be provided.

Therefore, the most important part is how negotiations are carried out so that no party feels disadvantaged in this land pawn. When deliberations are carried out in a friendly manner without prioritizing personal interests. According to Hasanudin, mutual listening activities which are based on voluntary mutual acceptance can be carried out well because deliberation is carried out with the parties involved.

Articles 17 and 18 PP no. 36 of 2005 provides legal protection to land rights holders against disputes regarding the determination of compensation. Land rights holders can submit objections to the government with these reasons. After listening, understanding and considering the reasons and wishes of the rights holders, the government can strengthen and change the decisions made regarding the type and amount of compensation. If the right holder refuses, they can only submit an objection to the amount of compensation desired, not to the land. As a result, people who have rights to land must relinquish or surrender their rights.

Land Acquisition Problem Resolution Mechanism

The land acquisition mechanism for the MEDAN-TEBING TINGGI toll road has been implemented in accordance with Law No. 2 of 2012, but there are still many complaints from the public regarding the mechanism for determining compensation that is not appropriate. Land on the Medan-Tebing Tinggi toll road has been purchased in accordance with procedures regulated by various land acquisition regulations. Presidential Decree No. 65 of 2006 and Law No. 2 of 2012 were enforced by Head of BPN Regulation No. 3 of 2007. In general, all the elements listed in these various regulations have been fulfilled when purchasing land. For land plots, the appraiser assesses the amount of compensation value, through which the land and other objects on the land can be assessed.

The value calculated by the appraiser is the value determined at the time of notification of the location to be carried out. The value is determined based on the assessment results. Next, the results of the Appraiser's assessment determine the amount of compensation to be used through deliberation. In addition, this assessment stipulates that the entitled party can

obtain compensation in its entirety for certain plots of land affected by procurement if there are remaining areas that cannot be used according to their intended purpose. This remainder includes land that can no longer be used according to its intended purpose, such as a divided residential house.

After the results of the assessment of the land acquisition object are completed, they are notified to the Land Agency via the minutes of submission of the assessment results. Within 30 working days, determine the type and amount of compensation that must be paid. To carry out these deliberations, the organization that needs the land and the parties concerned. During the deliberation process, minutes of agreement are prepared to determine the type of compensation that will be agreed upon by the land procurement implementer and the entitled party. The results of this deliberation are used as a basis for providing compensation to the entitled parties. Losses can be compensated as agreed by all parties concerned.

The value of individual or combined compensation is given based on the nominal value of compensation that is the same as that given by the appraiser. No compensation is given for relinquishment of rights under the auspices of the Government, BUMN, or BUMDes, unless: (1) The government building has been constructed and is being actively used; (2) Land procurement is controlled by state-owned or regional companies; (3) Land procurement from village funds.

The land acquisition mentioned above can be replaced with land, buildings or relocation. In most cases, those who own land but do not have use rights to the land usually receive compensation. Customary rights are replaced with land or resettlement and other things as decided by the customary law party. Land controlled by the state can receive compensation for land release in accordance with applicable law. Compensation is given to the party concerned in accordance with the results of the deliberation decision, the District Court's decision, or the Supreme Court. To receive compensation, the entitled party must do two things: (1) Waive the right; and (2) Providing proof of ownership or authority over land acquisition objects to parties who need it through land institutions. The ownership rights or rights of the entitled party are extinguished and the land certificate is no longer valid at the time compensation is granted.

I conducted interviews with residents of Cempedak Lobang Village and Belidaan Village in Serdang Bedagai Regency who were experiencing land pawning in 2013 in this research. From the interviews I conducted, I was able to make several conclusions about the research topic, namely: (1) All the people whose land was subject to land pawning in the construction of the Medan-Tebing Tinggi toll road agreed with the price given because they felt the price given was a very high price. higher than the existing market price in the area. Also seen from their economic point of view, this is also a reason to immediately agree to the agreement that was delegated. However, judging from the price differences in different areas, there are also residents who feel disadvantaged because they realize that the price determined is a low price when compared with land prices in other areas. (2) In providing compensation, the price given is divided into 2 groups. What differentiates these price groups is the location of the land and the condition of the existing land. Judging from the results of



the interview, it can be said that group 1 is valued at around 230-260 million rupiah with the location of the land being near the causeway and the type of land used for farming. Meanwhile, group 2 is valued at around 80 million with land located far from the reach of the public as well as empty land and poor land conditions, such as land that is often flooded. That is what differentiates each land price that undergoes land acquisition.

In obtaining an agreement regarding the amount of compensation, the community said that no deliberation was carried out to determine the agreement that the community had the right to express its aspirations regarding compensation. They said that they had immediately received the price determination given and there were only two choices between accepting and not accepting. In fact, in the case of land pawning, the right holder must be given legal protection for disagreements regarding the compensation given. However, judging from the results of the interviews I conducted, there is no legal protection for the entitled community.

CONCLUSION

Land rights holders must be legally protected from disputes regarding the determination of compensation, in accordance with Articles 17 and 18 PP No. 36 of 2005 and according to Article 1 number 2 of Law no. 2 of 2012. In preventive legal protection, people are given the opportunity to voice their objections, also known as inspiration or voice their opinions before the government's decision becomes a unanimous decision. The land acquisition process for the Medan-Tebing Tinggi toll road begins in accordance with Law No. 2 of 2012. The value calculated by the appraiser is the value announced at the time of the announcement of the construction location to be carried out. In addition to the minutes of submission of appraisal results, these values are sent to the Land Agency. Furthermore, these values will become the basis for deliberations on determining compensation. During the deliberation process, the appraiser and land procurement implementer will decide what type of compensation. If land acquisition rights owned or controlled by BUMN, BUMDes, or the government are relinquished, no compensation will be given. Compensation is given according to the value determined by the appraiser.

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