

## **Juridical Review on Asset Management of Land Rights for Roe Building Which Has Run Out Time (Analysis Decision Dispute in PT. Citra Mandiri, Central Java)**

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Abstract. In this study will be discussed how the consideration of judges in deciding this case and land management measures HGB assets. This research is an analytical description with normative juridical approach, by studying library materials (literature study) that the data used is secondary data, which includes the primary legal materials, secondary, and tertiary. The judges consider that the vulnerable period from 2009 to 2016 the land was returned to state control because certificate of HGB have expired in 2009 and was not renewed due to the occurrence of the land dispute. So PT CMJT and occupants of the home office, the same is not so entitled to the house. But in 2015, PT CMJT has committed an unlawful act that is with noticeboards statement of ownership and forcible emptying of the occupants of the house. Then the judges ruled on compensation of 100 million rupiah to PT CMJT the residents were harmed. This can be avoided if the PT CMJT have a good asset management can be done through asset management, namely certification, storage, security,  
Keywords: Asset Management; Regional Enterprise; Land Broking.

### **1. Introduction**

Land is a valuable asset owned by countries in running the government both at central and regional levels. The enactment of Act No. 5 of 1960 on Basic Regulation of Agrarian, or later better known as BAL and Article 33 paragraph (3) of the Constitution of the Republic of Indonesia of 1945. Article 2 of the BAL provide legal basis for the implementation of the policy land management as part of the authority of the state is based on Right to Control of the state.

In the land management required the administration of land aimed at inventorying the assets securing the land. Administration include Lands Rights and State Lands. Land Rights includes land owned by individuals or legal entities namely: Farming, Broking, leasehold, and the Right to Use.

Land Assets included in the class of land Government Rights and the State Assets that exist in the physical control of the agencies concerned, while there is the juridical control of the Minister of Finance.<sup>4</sup> Asset Land Government as one of the objects of land registration and control, management is given to government agencies at both central and regional levels.

Based on data from the Directorate General of State Assets or called DJKN, There are 75 298 plots of land owned by the Government, with the details:<sup>5</sup>

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<sup>4</sup> Boedi Harsono 1997 *Reformasi Pengurusan Hak dan Pendaftaran Tanah Sistematis Sebagai Upaya Mewujudkan Catur Tertib Pertanahan dan Manajemen Terpadu dalam Kumpulan Semnar nasional Studi Kebijakan Tata Ruang dan Pertanahan*, STPN Jakarta p.3.

<sup>5</sup> Ministry of Finance 2016 *Laporan Kinerja 2015* Direktorat Jendral Kekayaan Negara Jakarta p.24.

- 40 228 (53.43%) field has a certificate.
- 35 070 (46.57%) field has not been certified, in which:
  - 507 (1.45%) are in the field of dispute status.
  - 34 563 (98.55%) fields in the status of the dispute, in which:
    - 34 371 (99.44%) in the field of power ministries / agencies;
    - 192 (0.56%) field is not in the power ministries / agencies;

Government will continue to make improvements to the quality of management of state assets, especially in the form of land. But until 2017, based on data DJKN, certification of the State Property recommended to the ministry DJKN ATR / BPN can not be filled. From 4218 the proposed fields, plots have been published certificates are only some 3,820 field (92.54%).<sup>6</sup>

Implementation of the certification is not optimal that affect several things:<sup>7</sup>

- Prone disputed ownership by parties outside the government;
- Potentially lost in legal disputes;
- Being BPK findings in LKPP.

Impact when soil is not certified in point one (1) and two (2) above that the land will be disputed and potentially losing ground in the dispute. This can cause damage to the country, because the land assets owned by the government can be lost because of ownership changes hands.

One State Assets arising from the dispute that government land in a land dispute case belongs to the Home Office Regional Owned Enterprises (BUMN) PT. Citra Mandiri Central Java who lost land assets Broking due to land not yet certified and terinventarisir well. It is incompatible with Article 44 of Government Regulation No. 27 of 2014 concerning Management of State / Regional.

Results of Cilacap District Court ruling that Decision No. 50 / Pdt.G / 2016 / PN.Clp decided that Local Company Mandiri Citra Central Java declared lost and sentenced to compensate for their losses occupant occupant. It is strengthened by the Decision No. 405 / Pdt.G / 2016 / PT SMG on the decision Banding. Maka level raises the problem of the law because the Government of Central Java province earlier as the land rights holder must provide compensation for residents who do not have the right base , Based on the above description the author describes: how the consideration of judges in deciding cases enterprises PT. Citra Mandiri Central Java? how the asset management measures on the ground Broking which has expired?

## Research Methods

The method used in this research is normative juridical approach, the research done by reviewing the legislation in force or applied to a specific legal problem. Normative research is often called a doctrinal study, the research object of study is a document of legislation and library materials.<sup>8</sup>

Primary legal materials and secondary collected, compiled systematically analyzed qualitatively to achieve clarity problems that generate data descriptive analysis will then be deduced by using the method of thinking deductive, that is a pattern of thinking that is based on matters of a general nature subsequently withdrawn a conclusion.

<sup>6</sup> Ministry of Finance 2018 *Laporan Kinerja 2017* Direktorat Jendral Kekayaan Negara Jakarta p.43.

<sup>7</sup> Ibid.

<sup>8</sup> Soejono and H. Abdurrahman 2013 *Metode Penelitian Hukum* Rieneka Cipta Jakarta p. 56.

## 2. Results And Discussion

### 2.1. In Consideration of Judge Decision

Judge in Decision No. 50 / Pdt.G / 2016 / PN.Clp Cilacap District Court, there are two principal case that the problem in this case is:

- Who is the rights holder for the following home land located at Jl Veteran No. 42 and 44 Tambakreja Village, District of South Cilacap Regency Cilacap?
- Whether the act Defendant ordered the plaintiff to vacate the house following land located at Jl. Veteran No. 42 and 44 constitute a tort?

In the first case the principal point, the judges give the consideration that the rights holder for the following home soil by documentary evidence in the form of HGB No. 643 / village Tambakreja, effective from the date until the date 7-11-1989 6-11-2009 these rights holders is a Local Company Central Java province Cq. Coconut Oil Mill Vegetable Sari Cilacap Semarang resident who now berana Local Company Mandiri Citra Central Java. While the proof of HGB No. 849 recorded on 28/12/2016 with a validity period until the date of 27-12-2036 holders of these rights is the name of Local Company Mandiri Citra Central Java.

However, it raises the problem of where, in 2009, when HGB expired until 2016, the official residence still occupied by the Plaintiffs. based on the evidence SPPT / tax both the house is registered in the name of each parent Plaintiff is Sardjono and Herman Jaya.

In two HGB documentary evidence submitted by the Defendant, there is a period between the two HGB who do not hold the rights to the land. Thus the question arises, who is the holder of the land rights in a vulnerable time between the date of 07-11-2009 up to 27-12-2016 and it turned out at the hearing, both Plaintiffs and Defendants can not submit documentary evidence that can be used as a basis for determining the which holds the rights to the land in such a vulnerable time.

The judge gives judgment based on the evidence of the defendant's HGB letter that based on expert opinion Suparman and H. Supriyanto, SH, MH, HGB into force since then registered / recorded and the period of validity of these rights can not be applied retroactively. While the documentary evidence of the plaintiff based SPPT Tax Act No. 12 of 1994 on Land and Building Tax (PBB). SPPT is a document that shows the amount of debt on land and building tax that must be paid by the taxpayer at a predetermined time. SPPT not constitute proof of ownership of the object of taxation, so that the names listed in SPPT, does not automatically is as the rights holder for the tax object.

Under the provisions of Article 21 of Government Regulation No. 40 of 1996 on leasehold, Broking and Right of Use of Land, stated that: "The land can be given to the building rights is state land, land management rights and land ownership rights"

In the lawsuit Plaintiffs' argument that is not denied by the Defendant, home building, located on Jl. Veteran No. 42 Village Tambakreja, Cilacap and also houses located on Jl. Veteran No. 44 Village Tambakreja, Cilacap standing on the ground HGB status that comes from state-owned land.

Under the provisions of Article 35 paragraph (1) of Government Regulation No. 40 of 1996, expiration of the HGB as stipulated in the decision to grant or renewal or in the administration agreement. So HGB No. 643 / village Tambakreja by law to remove from the date of 7-11-2009. Furthermore, based on the provisions of Article 36 paragraph (1) of Government Regulation No. 40 of 1996 on leasehold, Broking and Right to Use Land stated that: "Termination of building rights on state land as referred to in Article 35 resulted in the land into state land"

Based on the Panel of Judges at regular intervals during the dates of 07-11-2009 up to 27-12-2016 the land is supposed to be in control of the state or back into state-owned land. However, this poses problems in the points two (2) subject matter of this case, the time span of the July 2015 Defendant has put a notice by using a pole that read: "This land belongs to PD Citra Mandiri Central Java, is prohibited establish / build up in the form of anything without permission PD Citra Mandiri ". Defendants also have ordered the Plaintiffs to vacate the house.

Measures posting and emptying physically conducted in a vulnerable time, it's really the opinion of the judges, Defendants do not have the right base legitimately disputed that conflict with legal obligations Defendant, contrary to the right subjectively Plaintiffs, contrary to morality, and against with propriety, thoroughness and caution. It should, before acting on the preparation of discharge followed by a discharge action and posting the above object of the dispute, the Defendant must file a lawsuit to the court to determine whether the plaintiff is entitled or not mastered object of the dispute.

Without pedestal legitimate rights of the Defendant, the Defendant's actions constitute an unlawful act and certainly cause harm to Plaintiffs who have been forced to leave disputed by Defendants who actually do not have rights to the object of the dispute at the time. Unlawful act referred to in article 1365 BW is any illegal acts that bring harm to others, require a person who because of his fault publish those losses, to replace those losses. Therefore the Panel of Judges petition for redress Plaintiffs legal grounds to be granted to the specified amount of the judges in accordance with justice and propriety. Material damages to be paid by the Defendant to the Plaintiff is equal to the contract price houses more or less the same size with the disputed house in Cilacap for a one-year contract, which is valued at a contract price of 2 (two) houses with a total of Rp. 100.000.000, - (one hundred million rupiah).

## **2.2. Land Asset Management on Broking who Exhausted**

In the case of land dispute occurred at the home office of PT Citra Mandiri Central Java occurred due Broking which has expired can not be extended because it is based on the argument of the Defendant, that the Defendants had tried to apply for extension of HGB No. 643 / village Tambakreja, but because No objections from the plaintiff resulted occur barriers to obtain. It can not be the basis for the exclusion of provisions concerning the abolishment of the building rights, as expressed in Article 35 paragraph (1) of Government Regulation No. 40 of 1996 on leasehold, Broking and Right to Use Land.

In addition, when viewed from the defendant, PT Citra Mandiri Central Java negligence and carelessness in terms of asset inventory and mailing documents required in the case of this dispute.

The first omission that is an extension of the Broking to the home office. Article 27, paragraph 1 of Government Regulation No. 40 of 1996 states that: "Request for extension or renewal Broking submitted no later than two years before his term ends Broking time it or its extension."

In HGB No. 649 on the ground that there is official residence owned by PT Sari Vegetable listed if HGB discharged on 07-11-2009. Should the owner if you want to extend these rights can be done two years before the timeout period is about 2007. But in the description of the new Defendant no effort to apply for the extension of HGB to Cilacap District Land Office in 2010, ie one year after the term of the HGB exhausted. So as of the end of the period, PT Citra Mandiri Central Java is no longer so entitled to the land and.

The second omission committed by the Defendant is the absence of an inventory of documents properly. Article 1888 BW which basically reads: "The strength of evidence is a written evidence on the original deed".

In this regard, PT Citra Mandiri Central Java that do not have the original deed HGB No. 649 the only form of copies, even though they can be received by the judges. In addition, no evidence of an agreement or the right base placement of the official house with the occupants, which should be a strong evidence to win a case of the dispute.

Under Article 25 Regulation of the Minister of Finance Number 138 / PMK / 2010 on State Property Management Form Home State stated: "Administration of the State covers kegiatan form of house accounting, inventory, and reporting."

These three points above become important in safeguarding state assets primarily in the management of the home office. It is supported in Article 43 of Government Regulation No. 27 of 2014 About the Management of State and Regions, namely:

- State / Regional form of the land must be disertipikatkan on behalf of the Government of the Republic of Indonesia / Local Government concerned.
- State / Regional form of the building shall be provided with proof of ownership on behalf of the Government of the Republic of Indonesia / the relevant local governments
- State Assets other than land and / or buildings must be equipped with a proof of ownership of the User name goods.
- Regional Property other than land and / or buildings must be equipped with a proof of ownership on behalf of the relevant local governments.

In the case of land disputes that this business Regional Enterprise PT Citra Mandiri Central Java and Central Java Provincial Government can increase the security of the region's assets with a particular land / building. Then the certificate as proof of ownership of the right base becomes a very important thing. The most important addition is the Asset Management Management.

Asset management is a cycle that starts from the receipt of goods:<sup>9</sup>

- planning include determination of need (requirement) and budgeting;
- procurement covers how to implement, standard and price of goods, preparation of specifications, and so forth;
- storage and distribution;
- control and maintenance (controlling and maintenance);
- security (safety);
- exploiting the use of (utilities);
- deletion (disposal);
- inventory (inventarization).

Application of asset management can be seen as a series of systematic and continuous activity in asset management. So by the management through asset management in government and firms can help an entity (organization) in meeting service delivery objectives effectively and efficiently.<sup>10</sup> In the case of government land assets case is at the stage of storage, security and inventory of the main points.

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<sup>9</sup> Department of the Interior 2007 *Inventarisasi dan Pelaporan Aset/Barang Milik Daerah* Module 5 Regional Asset Management Technical Training p 5.

<sup>10</sup> Haryono Arik 2007 *Modul Prinsip dan Teknik Manajemen Kekayaan Negara Tangerang Badan Pendidikan dan Pelatihan Keuangan* Tangerang Financial Education and Training Agency Training Center of Public Finance p. 7.

### 3. Closing

#### 3.1. Conclusions

- The judges in 2009 through 2016 in which both sides are equally not have pads legal right to the land based certificate HGB shown and punish PT Citra Mandiri Central Java has committed an unlawful act with punitive damages to the residents of the house on actions perform forced emptying conducted in 2015.
- Management of land assets HGB that have expired should really need to be considered relevant when should an extension done that two years before the expiry date, in addition to the inventory of assets such as land certificate and the agreement residential is very important so that the necessary management of the assets properly to prevent land disputes.

#### 3.2. Suggestion

Estate manager that enterprises PT Citra Mandiri Central Java need to improve the management of land assets good that can be done through asset management, namely certification, storage, security, and inventory of documents relating primarily to the utilization of these assets in the future, so as to ensure legal certainty of land assets HGB.

### 4. References

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