

The Role of Notary in Land Liberation Relation to PLTU Development for Public Interest

Dian Laras Sukma ^{*)}, Jawade Hafidzm ^{**)} and Ngadino ^{***)}

^{*)} Student Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang, E-mail: dsukma26@yahoo.com

^{**)} Lecturer Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang

^{***)} Lecturer Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang

Abstract. *PLTU Batang is a steam power plant built in Batang Regency which is expected to meet the national electricity needs in the Java and Bali regions. The PLTU is located in three villages namely Ujungnegoro, Karanggeneng, and Ponowareng, near the Ujungnegoro Sea. Among the three villages, Karanggeneng had the biggest impact because the majority of its residents experienced the impact of the PLTU construction. The purpose of this study was to evaluate the influence of the PLTU development policy on the social life of the Karanggeneng Village community. This research uses the method juridical sociology, namely in this study the author conducts a review of the legal aspects to find out the applicable regulations, especially those relating to the role of notaries in land acquisition in. The data collection techniques used were interviews, observation, and documentation. The results showed that the existence of PLTU Batang affected the Karanggeneng Village community who were forced to sell their land, the future of the local community was also affected because of the change in land functions resulting in the community losing their livelihoods. The PLTU policy has an impact on current and future conditions, namely increasing unemployment and poverty in Karanggeneng Village, but the form of PT PBI's responsibility is the establishment of a KUB for affected communities, it is suggested that the construction of PLTU Batang should pay more attention to the socio-economic conditions of the community. This study aims to determine the process of land or land acquisition for PLTU development in Batang Regency, where there is a notary's role in making authentic deeds. The Land Acquisition Committee (P2T), refers to the land acquisition regulations at that time. This type of research is sociological juridical. The Land Acquisition Committee changes the designation of the Regional Spatial Planning (RTRW), also provides compensation in the form of money in the release of land that does not have ownership rights based on the Basic Agrarian Law (UUPA) and Government Regulation Number 24 of 1997. Notaries make the Deed of Releasing Rights to Land and the Deed of Debt Recognition in the said land acquisition, while the land acquisition is on state land, so there is no relinquishment of land rights in the legal act.*

Keywords: PLTU; Public Interest; Land Acquisition; Notary.

1. INTRODUCTION

As is well known, in the current era of globalization, the notary institution plays an important role in every development process, because a notary is a position that carries out the profession and legal services and provides guarantees and certainty.

Every society needs a (figure) whose information can be relied on, can be trusted, whose signature and seal (stamp) provide assurance and solid evidence, an impartial expert and an advisor who is not flawed (onkreukbaar or unimpeachable), who keeps his mouth shut, and make a covenant that can protect it for days to come.¹ Based on Article 1 paragraph 1 of Act No. 2 of 2014 concerning the Position of Notary Public (UUJN):

"Notary is a public official who is authorized to make authentic deeds and has other powers as referred to in this Law or based on other Laws."

Notaries in carrying out their duties and authorities as well as their obligations must always uphold an integrity and morals that can be accounted for, because the results of their work in making a deed and maintaining a Notary's protocol are very important for the process of evidence in court and outside the trial, namely as perfect authentic evidence and binding, in the sense that the truth of the things written in the deed must be acknowledged by the judge, that is, the deed is deemed true as long as the truth is there is no other party that can prove otherwise.

The Minister has the authority to appoint and dismiss a Notary, as referred to in Article 2 UUJN, by fulfilling the terms of appointment as stipulated in Article 3 UUJN and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 25 of 2014 concerning conditions for appointment, dismissal and transfer. Notary Public. The Minister will issue a letter of appointment according to the application submitted in writing. Notary who has been appointed based on a Ministerial Decree is obliged to take an oath of office before the competent official, in this case the Head of the Regional Office of Law and Human Rights of the Republic of Indonesia, where the Notary is domiciled and within 60 (sixty) days from the date of the decision letter. ministerial appointments are issued. The authority of a notary in carrying out his position is after the pronouncement of an oath or promise of office, since then the making of a deed made by a notary is authentic which has perfect evidentiary power, as regulated in Article 1870 of the Indonesian Civil Code. Notaries who do not actually carry out their positions are regulated in Article 7 of the Law on Notary Position Number 2 of 2014 concerning Amendments to Act No 30 of 2004 concerning Notary Positions.

Supervision and guidance is needed so that the Notary in carrying out his duties and responsibilities as given by the relevant basic regulations, is always carried out on a predetermined path, not only the legal route, but also on the basis of moral and professional ethics, with the aim of ensuring legal protection and certainty. law for the public who use Notary services. The Minister has the authority to supervise and foster Notaries, and to exercise this authority to form a Supervisory Council in this case is the Notary Supervisory Council, hereinafter referred to as MPN. Since the presence of the Notary Institution in Indonesia, supervision of Notaries has always been carried out by the judiciary and the government.²

¹Tan Thong Kie. (2007). *Studi Notariat dan Serba-Serbi Praktek Notaris*. Jakarta: PT. Ichtiar Baru Van Hoeve. p. 449

² Hartati Sulihandari. (2013). *Prinsip-prinsip Dasar Profesi Notaris*. Jakarta: Dunia Cerdas. p.4

In carrying out his position, the Notary must comply with all moral principles that have lived and developed in society. Apart from the existence of responsibility and professional ethics, the existence of integrity and good morals are important requirements that must be possessed by a notary public, it is said that because responsibility and professional ethics have a close relationship with integrity and morals.³Every report from the public regarding violations committed by a Notary, for example not carrying out their actual duties, not submitting monthly reports, not having an office, for those who know about this, they must first be reported in writing to the Regional Supervisory Council domiciled in the City/Regency. hereinafter referred to as MPD. MPD has the scope of authority to hold hearings to examine any violations of the Notary Code of Ethics, violations of the implementation of the Notary's office and the behavior of a Notary who is outside of carrying out his/her duties as a Notary which can interfere and influence the implementation of the Notary's duties. The Regional Supervisory Council domiciled in the Provincial Capital has the authority to impose sanctions in the form of an oral warning and a final written warning. Based on the description above, it is necessary to dig deeper regarding everything related to notaries who do not carry out their positions properly, including the implementation of supervision and enforcement of sanctions.

2. RESEARCH METHODS

The method used in this research is sociological juridical, that is, in this study the author conducts a review of the legal aspects to find out the applicable regulations, especially those related to the role of notaries in land acquisition in relation to development for the public interest, namely the construction of PLTU in Batang Regency. this is notary/PPAT. The juridical approach in this study is intended to discuss laws and regulations relating to the role of notaries in land acquisition in relation to development for public interest, in this case notary/PPAT. Based on the research title that has been described in several problem formulations and linked to the objectives to be achieved as described above, then the specifications are included in the scope of analytical descriptive research. meaning that this research is an attempt to describe (disclose and explain) the role of the notary in land acquisition in relation to development in the public interest.⁴

3. RESULTS AND DISCUSSION

3.1. The Role of Notaries in Land Acquisition Relates to the Construction of PLTU for Public Interest

Notary is a public official who has the authority to make an authentic deed, in addition to other powers determined by law. With the authority given by the State to notaries as stipulated in the Law of the Republic of Indonesia Number 2 of 2014 concerning amendments to Act No 30 of 2004 concerning the Position of Notary Public, the notary position. Notary profession in Indonesia is one of the quite old professions. This can be seen from the history of notary law in Indonesia which began in the 17th century with the existence of "Oost Ind. Compagnie".

³<http://lib.ui.ac.id/file?file=digital/130992-T%2027422-Pengawasan%20majelis-Pendahuluan.pdf> accessed on March 13, 2020, 02.31

⁴Ibid, p. 26-27

The legal basis for notaries in land acquisition transactions for PLTU construction sites in Batang Regency is Act No 5 of 1960 concerning Agrarian Principles (UUPA), which is based on Article 33 paragraph (3) of the 1945 Constitution. contained therein controlled by the state and used for the greatest prosperity of the people, "this article aims to achieve social justice for all communities in relation to the acquisition and use of natural resources, especially land. The release of land rights is carried out on a letter or deed made before a notary which states that the right holder in question has released his land rights and the deed is generally known as the Deed of Releasing Rights. Article 37 PP No.24 of 1997 regarding land registration, that the transfer of land rights through sale and purchase can only be registered if it is proven by a deed made by the Authorized Land Deed Authorization Officer (PPAT) according to the provisions of the statutory regulations. Thus, the juridical definition of land is the surface of the earth as stated in the provisions of Article 4 paragraph (1) of the UUPA, namely:

"Based on the State's right to control as meant in Article 2, it is determined that there are various rights over the surface of the earth, which are called land, which can be given to and owned by persons, either alone or together with other people as well as legal entities ". The right to the surface of the earth or the right to land is the right that gives the authority to use the land which is given to the right holder to use or take advantage of the land which he has held. The authority to use means that the right to land is used for the purpose of constructing a building, while the authority to take advantage means that the right to use the land is used for the purpose of not building a building, for example for agriculture, fisheries, livestock, plantations.⁵

In this case, the holder of the Management Right, in addition to being authorized to use the Management Rights land for the purposes of carrying out his business, the right holder is also authorized to hand over parts of the Management Rights land to a third party with certain conditions, both regarding the designation, use and regarding the period and finance in accordance with the applicable laws and regulations. The granting of HGB over Management Rights land is granted by means of a decision to grant rights by the Head of the Regency/Municipal Land Office based on a proposal from the holder of the Management Right. Meanwhile, the mechanism refers to the provisions of Article 2 PMDN 1 of 1977, which are as follows: Parts of land management rights granted to Local Governments, Institutions, Government agencies and/or legal entities (owned) for the construction of residential areas, can be submitted to a third party and proposed to the Minister of Home Affairs or the Governor of the Region concerned to be granted with Freehold, Building Use, or Use Rights, in accordance with the plan. the designation and use of the land which is the same as the available land includes: State land, land which is directly controlled by the State; Land Rights, namely lands that have been controlled with a right to land by a person or legal entity; the types are Ownership Rights, Business Use Rights, Building Use Rights, Use Rights; Land Management Rights, namely rights that provide land for the needs of other parties and other parties can control parts of land. Management rights with ownership rights, building use rights, and usage rights, through granting rights⁶ According to its inherent nature, the Management Right is the Right to Control from the State whose implementing authority is partially delegated to the holder

⁵ Urip Santoso. (2006). *Hukum Agraria Dan Hak - Hak Atas Tanah*, cet. 2. Jakarta: Kencana. p. 82

⁶ R.M. Suryodiningrat. (1991). *Perikatan-Perikatan Bersumber Perjanjian*. Bandung: Tarsito. p.12

(Article 1 number 1 Government Regulation Number 40 of 1996) while the land under control is state land, therefore parts of it can be given to other parties who need it with building use rights, and usage rights.⁷

Management rights can only be granted to certain subjects, namely Government Agencies, Regional Governments, State Owned Enterprises. Broadly speaking, the procedures for obtaining land according to the National Land Law are as follows: Procedure for application and granting of land rights, if the land required has the status of State land; Procedure for Transfer of Rights, if the required land has the status of titled land, the party requiring the land may have existing rights, as well as the owner is willing to surrender the land; Release of Rights Program, if the land required has the status of customary land rights/customary rights, the party requiring the land may not own existing land, and the owner is willing to give up land rights; Program for Revocation of Rights, if the required land has the status of titled land.⁸

The task of a notary is actually to make authentic deeds but specifically for land, the authority of the notary in making land deeds is currently a little limited. Article 15 paragraph 2 letter f of Act No 30 Year 2004 concerning Notary Position, it does say that the Notary is authorized to make land deeds, however, there is a suggestion that making a land deed is under the authority of a PPAT. This is based on avoiding overlapping duties between a notary and PPAT. Although the change in the Position of Notary was mentioned regarding the elimination of the article, in the end Article 15 paragraph 2 letter f was still included. However, there is a limit to the notary's authority in regulating land deeds. Experts are of the opinion that the authority of the Notary in making land deeds is carried out for deeds that are not under the authority of PPAT.

3.2. Land Acquisition Process for PLTU Development for Public Interest

The Land Acquisition Process for PLTU Development for Public Interest in Batang Regency includes: (1) Inventory and identification of control, ownership, use and utilization of land, (2) Assessment of compensation, (3) Deliberation to determine compensation, (4) Providing compensation losses, (5) Release of land

The party entitled to receive compensation is obliged to relinquish their rights and submit proof of control or ownership of the land which is the object of land acquisition to the agency requiring land through the land agency. Relinquishment of rights is an activity of terminating legal relations from the party entitled to land to the state through the Land Institution. The release of the object of land acquisition for public interest is carried out no later than 60 (sixty) working days from the determination of the location of the construction for the public interest. If the Release of Land Acquisition Objects has not been completed within 60 days, the land is declared to have been released and becomes state land and can be immediately used for development for Public Interest.

Officials who violate these provisions will be subject to administrative sanctions in accordance with the provisions of laws and regulations. Based on the explanation

⁷ *Ibid.*

⁸ Muntaqo Firman. (2010). *Karakter Kebijakan Hukum Pertanahan Era Orde Baru dan Era Reformasi*. Semarang: Badan Penerbit Undip, Cetakan 1. p. 11

above, we can conclude that the procedure for implementing land acquisition begins with an inventory and identification of the control, ownership, use and utilization of land as a basis for determining the entitled parties to provide compensation. Then, the land agency conducts an assessment of compensation. The assessment of the compensation will be used as the basis for deliberations to determine the compensation. After reaching an agreement, the party entitled to the land will receive compensation and after that it is obliged to release the right and submit proof of control or ownership of the land which is the object of land acquisition to the agency requiring land through the land agency.

3.3. Constraints faced in the Process of Land Acquisition for PLTU Development in Batang Regency and how to overcome them.

The Indonesian government's efforts to overcome investment barriers In order to achieve the goal of meeting electricity needs in Java and Bali, of course the Indonesian government is very serious in dealing with existing obstacles. During the investment process, the Indonesian government faced obstacles that did not only come from abroad but also originated from within the country.

From within the country some very clear obstacles were recorded, namely from the community around the project and assistance from several national and international environmental organizations such as Greenpeace and Walhi. If this obstacle is not resolved immediately, then of course large investment opportunities from abroad like this will be missed and will not come a second time to Indonesia. Not only losing investment, Indonesia could also lose the trust of other countries that will regard Indonesia as a country that is not friendly to foreign investment cooperation. In this discussion, the efforts of the Indonesian government will be divided into two, namely the efforts made to overcome obstacles from within the country and the efforts undertaken in overcoming investment barriers originating from abroad.

3.4. Government efforts in Indonesia to overcome domestic obstacles

In overcoming barriers to foreign investment, the Indonesian government has interpreted the concept of soft diplomacy in which the government uses a cultural approach that will soften the barriers. Meanwhile, to overcome domestic obstacles, the Indonesian government uses the concept of public diplomacy because what the government is facing at home is not the state or INGO entities but NGOs and the Indonesian citizens themselves.

In order to face the internal obstacles that exist in the construction of the PLTU in Batang district, it can be seen that the Indonesian government is using public diplomacy to the people affected by this investment so that the problem can be resolved. One of the most surprising things that the Indonesian government must face in this investment process is the people themselves. Where in this problem the community considers the PLTU development to be unfriendly to the environment and society. The public is aware that the dangers posed by this PLTU will be very dangerous, from polluting the air around the PLTU to polluting the environment which will have an impact on their survival.

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As for the people who sell their land to BPI because they are forced to sell the land. The land that is still in land acquisition problems is still unsolved even though the land is already in the power block area and the buying and selling money is still deposited in the court. It is hoped that the PLTU construction will make the community prosperous, but it turns out that many people are suffering from land conversion by PT BPI. People who already feel they have been harmed by the PLTU do not want to be harmed again by the expense of expenses or anything for the PLTU or for PT BPI itself. Their income is now far different from before and the people still really hope that BPI can provide welfare for the community in the future.

4. CLOSING

4.1. Conclusion

1. The Role of Notaries in Land Acquisition Relation to PLTU Development for Public Interest is to make a letter of agreement relating to the exercise of rights. The release of land rights is carried out on a letter or deed made before a notary which states that the right holder in question has released his land rights and the deed is generally known as the Deed of Releasing Rights. Article 37 PP No.24 of 1997 concerning land registration, that the transfer of land rights through sale and purchase can only be registered if it is proven by a deed made by the Authorized Land Deed Authorization (PPAT) according to the provisions of the statutory regulations
2. The Process of Land Acquisition for PLTU Development for Public Interest is an inventory and identification of control, ownership, use and utilization of land. Second, the assessment of compensation. Third, deliberation on the determination of compensation. Fourth, giving compensation and finally releasing the land.
3. Obstacles and Solutions in the Process of Land Acquisition for PLTU Development in Batang Regency, namely the main problem in the spotlight is the community's refusal to release their land for the PLTU to be built and the coast which is part of the PLTU development area. People will defend the things they think are their right. They will not accept development that is not in accordance with their needs and policies that are detrimental and the impact on the environment is bad. Especially if the arrival of investors who have a bad impression will make their minds even more resistant to it. On the other hand, it cannot be denied that the use and need for electricity in the community is very large. The construction of PLTU Batang is one way to meet the electricity needs of the community. However, the development was deemed not on

target. Development seems to have zero value, even though the people of Batang are not completely ignorant, they also learn how to behave and judge which ones to accept and which to reject if they harm them. Development is sometimes only one-way centered. The government should have built PLTU without harming the community and causing them anxiety and environmental damage. The government should be able to touch the stem community right in their hearts so that development does not cause a sustainable polemic

4.2. Suggestion

1. The government should consider the impact on the community affected by the project, either directly or indirectly, especially the indigenous people of Batang Regency, where there are still many affected people who have low education or do not have certain skills who cannot become laborers of PLTU. In the end, they become unemployed. People want to open up to the existence of PLTU. The establishment of the PLTU is not only aimed at the Batang community but for the community nationally. This is to meet or fulfill the electricity needs of the Indonesian people.
2. PT BPI itself should be the one who needs to research what problems in the community are preventing KUB from running anymore. Because the majority of people with low education do not know about the world of entrepreneurship, the importance of the government to provide training and guidance to the community so that the entrepreneurship that is initiated can run smoothly so that it becomes a business known to the public. The compensation received by the community should be used as well as possible so that it can raise their income and life span. And even the compensation money and KUB are well managed which later can be useful for the next life
3. To the people around the village of Ujung Negoro, it opens up job opportunities for the community in the form of cultivar business, and boarding houses for overseas people who work at the PLTU.

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