



STAGES OF LAND PROCUREMENT FOR PUBLIC INTEREST DEVELOPMENT (STUDY OF DECISION NO.227/PDT/G/2020/PN.MDN)

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Abstract

Land Procurement for the Implementation of Development in the Public Interest is one of the manifestations of the social function of land rights which has been mandated in Article 6 of the LoGA. appropriate compensation for the land rights without compromising the rights and sense of justice. This includes the interests of the government as well as justice for the rights of the people who are taken and also the public interest in using the facilities built by taking the land of the land owner with the power of his Land Rights. The research method used is a literature study that uses Court Decisions and primary & secondary sources of material as research support. The position of a person in a lawsuit complaint is also very important, in this case the judge's consideration is also needed in viewing a lawsuit, and also for the government, it must provide the right of compensation in kind. The results of this literature study research method state that land acquisition for development is in the public interest to uphold the basic principles of humanity and justice.

Keywords: Land Procurement, Common Interest, Public Development, Judge's Consideration, Justice for People's

I. Introduction

A. Background

Land is one of the most important things that humans need, such as food and drink, and humans need land to be stable in order to build houses and live there. In Indonesia, people are competing to own land for their homes, but unfortunately this does not rule out the possibility of causing new problems in the land sector. The land issue also affects the most important rights of the people, besides having the economic value of the land it also functions as a social problem. One of the new problems that will arise due to high community demand is land acquisition. Land acquisition is any activity that aims to acquire land by providing compensation to those who acquire or lose land, buildings, trees and other things related to land.



Access to land for public purposes is an expression of social responsibility for land rights mandated in Article 6 of the UUPA. Based on the philosophy of social work on land rights, the basis for establishing land acquisition laws is to ensure that land is available for development implementation and is based on respect for people's rights to land. In this regard, obtaining land for public use is very easy because it includes everyone's rights, and the land obtained is not private, although the people who live in it can cultivate it. Therefore, on the other hand, to complete the land acquisition, you have to look at everything and pay the full amount, because if you pay incorrectly, it can lead to a new book. Therefore, it is not surprising that after Indonesian independence, the first thing the country's leaders did at that time was work on "land reform" which was marked by the birth of "UU No. 5 of 1960 concerning Basic Agrarian Affairs." hereinafter abbreviated as UUPA (Rusyadi, 2009). This work of "taking" land (by the state in the process of implementing public service development) is what is then called land acquisition.

"UUPA itself in Article 16 provides a legal framework for achieving these rights in the field by saying: For the public interest, including the good of the nation and society and the good of the people, right down, under." legally appropriate compensation. Developments currently underway by the government often involve land acquisition. In order not to violate the rights of landowners, land acquisition must be carried out by considering the principles of public interest in accordance with the legal framework (JDIH, 2009). Based on "Article 1 (3) of Presidential Decree No. 56 of 2006, land acquisition for the development of public welfare is any activity intended to acquire land by providing compensation to those who have released or transferred land, buildings, trees and objects related to land. First, In Indonesia, land acquisition, especially for the implementation of social welfare development, is carried out by the government and regional governments by means of revocation of land rights. This is regulated in Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development in the Public Interest, Article 1 Number 3. However, with the issuance of Presidential



Regulation Number 65 of 2006 which was a change from Presidential Regulation Number 36 of 2005.

Over time, the Regulations regarding Land Procurement for Development for Public Interests underwent continuous changes, and finally the legal rules that apply regarding this matter became Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interests. This law also clearly regulates the overall stages and procedures for land acquisition up to the provision of proper and fair compensation. In the decision 227/Pdt/G/2020/PN.Mdn it is known that the land acquisition case for public interest was first initiated by the Petitioner who believes that he is the 2 Defendants who own the land for the development. the Medan-Binjai road, but in the murder, the judge feels that there is no good in the hands of the plaintiff because the defendant who feels entitled to the land does not invite the person to talk to him. and give him. compensation in kind, but during the implementation of the decision, it turned out that the plaintiff did not have the legal right to sue the person, then the defendant also sued unfairly and the plaintiff and other small parties as witnesses.

Therefore, it is important for us to know the process of land acquisition for the implementation of development and social welfare carried out by the government and regional governments that regulate good law in Indonesia. In addition to land acquisition, it is also important to know the meaning of public interest, considering that land acquisition in Indonesia is often for the public interest. In addition, the judge's opinion in making a decision must also consider whether he will decide according to the law or not. This will be reconsidered when he evaluates something because he must look at 'important factors that can complicate a case. because this is what the author will discuss in depth and further in the article entitled "Land acquisition for the implementation of development in the public interest(Decision Study No.227/Pdt.G/2020/PN.Mdn)"



B. Problem Formulation

1. What are the Stages of Land Procurement Procedures in the Public Interest by law positive in Indonesia?
2. What are the considerations and decisions of the judges in the Decision No. 227/Pdt/G/2020/Pn. Mdn?

C. Research Methods

The research method used is a normative legal research method that uses secondary data sources taken from literature studies with using research data types in the form of primary legal materials, secondary legal materials and tertiary legal materials. Study Conducted By Using the applicable statutory approach related to normative deductive analysis techniques that adjust to the topics to be discussed by the author.

II. DISCUSSION

A. Stages of Land Acquisition Procedures in Indonesia Based on Positive Law in Indonesia.

Land acquisition is a series of activities to provide land by way of compensation, there are also those who argue that the meaning of land acquisition is any activity to acquire land by giving compensation to those who are entitled to the land. The procedure that must be followed is by releasing or handing over land rights. The meaning of releasing or handing over land rights is an activity to release the legal relationship between the holder of land rights and the land they control by providing compensation on the basis of deliberation.

1. Definition of Land Procurement

The term land acquisition can be seen in Article 1 point 2 of Law Number 2 of 2012 concerning land acquisition for development in the public interest, namely: "Land acquisition is the activity of providing land by providing proper



and fair compensation to the party entitled to it." Land Procurement for Development in the Public Interest also involves elements of the general public because there is the word "Public Interest" which according to one expert can be explained as follows: "The public interest according to John Salindeho is: (Salindeho, 1988) together with the people, taking into account social, political, psychological, and defense and security aspects on the basis of the principles of national development by heeding national security and the insight of the archipelago."

The notion of interest in a broad sense is defined as "public benefit". whereas in a narrow sense it is defined as "public access", if public access is not possible, then simply "if the entire public could use the product of the facility" (Sumardjono, 2008). Based on Article 1 point 6 of Law no. 2 of 2012 means that: "The public interest is the interests of the nation, state and society which must be realized by the government and used as much as possible for the prosperity of the people".

In principle, Indonesian Agrarian Law recognizes 2 (two) forms of land acquisition, namely: Implemented by way of relinquishment or surrender of land rights (land right exemption) and carried out by way of revocation of land rights, and ultimately converted into land acquisition where this is changed to better respect the rights of the community as owners of land rights and apply the principles stated in the applicable regulations. Acquisition of land is a legal process carried out by the government to acquire land for certain purposes by giving it to the (natural or legal) owner of said land according to certain procedures and a number of names. This is due to the small amount of land for development, namely land controlled by the state (government) based on "Articles 2 and 4 of the UUPA as political parties."

Based on the above understanding, land acquisition consists of the following elements:

1. Legal actions in the form of relinquishing land rights to become state land



2. Legal actions are based on deliberation and voluntarism
3. Accompanied by fair and proper compensation.¹

Land acquisition as a legal act carried out by the government to obtain land for certain interests by providing compensation to the owner (either an individual or a legal entity) of land according to a certain procedure and nominal amount. The rationality is due to the limited availability of land for development, namely lands controlled by the State (government) according to articles 2 and 4 of the BAL.²The basic concept of land acquisition through the release or transfer of land rights is carried out by deliberation based on an agreement between the two parties, namely the land owner and the government as the party in need.³

2. Types of Development for the Public Interest.

There are several types of development in the public interest based on article 10 of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, namely:

1. national defense and security
2. public roads, toll roads, tunnels, railroads, train stations, and rail operating facilities
3. reservoirs, dams, bends, irrigation, drinking water channels, water drainage and sanitation, and other irrigation structures;
4. seaports, airports and terminals;

¹Lestari, Gina Ayu. "Compense For Land Procurement For The Development Of The Jatigede Reservoir In View From Law Number 2 Of 2012 Concerning Land Procurement For Public Interest Development." PhD diss., Faculty of Law Unpas, 2016.

²Maria SW, Between the Interests of Development and Justice "Alternative Discussion Forum", Atma Jaya University, Yogyakarta, 1994, p. 72.

³Abdullah Sulaeman, Land Acquisition for Public Interest, Jala Permata Aksara, Jakarta, 2010, p.6.



5. oil, gas and geothermal infrastructure;

and many others listed in "Article 4 Paragraph (1) of Law Number 2 of 2012 Concerning Land Acquisition for Development in the Public Interest." Broadly speaking, if the government wants to build public facilities such as airports, schools or seaports, the government usually already owns or obtains the land long ago, but it does not rule out the possibility if at the time of planning a development, land acquisition is carried out, but indeed the most what we know is that the construction of toll road infrastructure takes more time because the construction can be carried out suddenly even though it has been planned in advance.

3. Principles of Land Acquisition as Development for Public Interest.

In the event that the implementation of Land Procurement for Development in the Public Interest is also adjusted to the applicable principles and in Article 2 of Law Number 2 of 2012, namely: Land Procurement for public interests is carried out based on the principles: a. Humanitarian Principles; b. Principle of Justice; c. Benefit Principle; d. Certainty Principle; e. Openness Principle; f. Principle of Agreement; g. Participation Principle; h. Welfare Principles; i. Sustainability Principles; j. The Principle of Alignment.

4. Procedures for Land Procurement for Public Interests.

In the case of the implementation of land acquisition for public purposes, it is carried out in the manner that applies in accordance with the applicable laws and regulations, in which this matter is adjusted to the applicable regulations, namely "Law Number 2 of 2012 concerning Land Acquisition for Development for the Public Interest" , in the Regulation it is known that matters regarding the stages of land acquisition implementation are contained in Article 16 of Law Number 2 of 2012, namely by (a) notification of development plans,



(b) Preliminary data collection of locations, (c), public consultation on development plans for the three matters This will be carried out by the agency that needs the land. Furthermore, after the Determination of Land Acquisition Planning.

After a balanced compensation assessment has been established, the agency that needs land will begin to conduct deliberations on determining compensation to the people who are entitled to it and when the community agrees, this will make it easier for the agency to provide compensation according to the price of the land which will then be welcomed. release of land by the owner to the competent authority. Even though this stage of land acquisition looks easy and at first glance it is very easy to implement, in practice it is not easy because there are always obstacles in determining the value of compensation and also the community's approval of this value which is considered insufficient and does not match the price of the land they purchased in advance. formerly.

All of these stages are carried out by the Land Acquisition Committee whose duties are assigned by the agency and in carrying out its duties the land acquisition committee is also given an amount of funds called operational costs which are regulated in "Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 72 of 2012 concerning Operational Costs and Supporting Costs for the Implementation of Land Acquisition for Development for Public Interest Sourced from the Revenue and Expenditure Budget Regions and Regulation of the Minister of Finance of the Republic of Indonesia Number 13/PMK.02/2013 Concerning Operational Costs and Supporting Costs for Organizing Land Acquisition for Development for Public Interest Sourced from the State Revenue and Expenditure Budget." The Land Acquisition Committee besides doing the things described above, also has the function of surveying land



needed by the government in carrying out development, making inventory maps for the parties.

5. Assessment of Land Prices

The valuation of the price of land affected by a development project for the public interest is carried out by an Appraisal Team announced by the Land Agency. Based on "Article 33 of Law Number 2 of 2012, the assessment of the amount of the value of compensation by the appraiser is carried out plot per plot of land, including: a. Soil; b. Above ground and underground space; c. Building; d. Plant; e. Objects related to land; and/or f. Another appraisable loss." The valuation of land prices is carried out in advance because it is to inform the landowners whose land will be taken, so that landowners can find out how much compensation will be given to them by the government. In this case too, this price assessment can be fraudulent where the price that should be given is higher, lower or reduced.

6. Deliberation or Public Consultation

Deliberations were held to discuss the amount of compensation. If the deliberations are successful, the land acquisition process will also be successful, and conversely failure in deliberations will result in failure in land acquisition including land acquisition⁴. After the enactment of Law Number 2 of 2012 the process of dialogic communication or deliberation is known as Public Consultation, carried out between interested parties in order to reach an understanding and agreement in determining the location planning for land acquisition for development in the public interest, regulated in Article 1 point 8 of the Law Number 2 of 2012.

Since the beginning of the land acquisition process, the land owners have been given the right to be involved in deliberations to determine the location of

⁴Indonesia, Law Number 2 of 2012, Concerning Land Acquisition for Development in the Public Interest.



the land for land acquisition. In this way the landowners already know and even participate in planning the determination of the location of the development for the public interest, so that it will minimize displeasure between the community and the results of the proposed compensation decision. Those whose lands were taken by the government can be appreciated and get the best solution from both parties.

7. Compensation

Compensation according to "Article 1 Number 10 of Law Number 2 of 2012, states that: "Compensation is a proper and fair compensation to the rightful party in the land acquisition process". While the form of compensation is regulated in Article 36 of Law Number 2 of 2012, compensation can be given in the form of: a. Money; b. Soil Replacement; c. Resettlement; d. Shareholding; or e. Other forms agreed by both parties.⁵

The provision of compensation is also stated in the last applicable law, namely "Law Number 2 of 2012". the other location as replacement land for land owners affected by development projects. Reimbursement for buildings, plants and objects related to land, will be determined by each agency⁶

This compensation can also be given directly or by depositing it at the local district court in accordance with the land area. However, safekeeping of the compensation money can be carried out if it meets the conditions given, for example because the whereabouts of the land owner are not found.

⁵Indonesia, Law Number 2 of 2012, Concerning Land Acquisition for Development in the Public Interest, Article 1.

⁶Mudakir Iskandar Syah, Land Acquisition for the Development of Public Interests, Legal Remedies for Communities Affected by Exemption and Revocation of Rights, Jala Permata Aksara, Jakarta, 2014, p. 20-21.



D. Principles of Land Acquisition Based on Applicable Regulations.

The basic principles of land acquisition in Indonesia have also been implemented by the local government, starting from:

- a. Respect for People's Rights (Article 3 of Perpres 36/2006, Article 36 Law 39/1999 on Human Rights)
- b. Provision of appropriate compensation, namely compensation equivalent even more advanced (better life) to the former owners in the form of: compensation for land rights; building; plants and other objects related to land and have economic value (Article 3 of Presidential Decree 36/2006, Article 36 of Law 39/1999 on Human Rights)
- c. Implementation of deliberation, namely the process of mutual hearing, giving each other and mutual acceptance of opinions, as well as the desire to reach an agreement regarding the form and amount of compensation and other issues related to land acquisition activities on a voluntary basis and equality between parties who own land, buildings, plants, and other objects related to land and parties who need land (Article 3 of Perpres 36 of 2006), Article 36 of Law 39/1999 Concerning Human Rights)
- d. Compatibility with the RTRW: that development is for the public interest must comply with the zones within cultivation areas as well as protected areas, and uphold land capability values (Article 3 of Perpres 36/2006, Article 36 of Law 39/1999 concerning Human Rights).

It is necessary to ensure that the land that is to be abolished exists and that the owner of the land rights can also be found, making it easier to carry out discussions and provide compensation for the required land. The land that is confirmed to exist must also really be from a valid original owner and hold the certificate too. For this reason, land acquisition must also protect the basic rights of the community, In order to pay attention to the rights of the community to be protected, Presidential Regulation No. 36 of 2005 Jo. Perpres



No. 65 of 2006 and Regulation of the Head of BPN-RI Number 3 of 2007, regulates:

- a. Location socialization (Article 8 Regulation of the Head of BPN-RI Number 3 of 2007);
- b. There is counseling about the benefits, aims and objectives of development to the community (Article 19 Regulation of the Head of BPN-RI Number 3 of 2007);
- c. Announcement of the results of an inventory of land, buildings, plants and other objects related to land in order to provide an opportunity for interested parties to submit objections (Article 23 of Regulation of the Head of BPN-RI Number 3 of 2007);
- d. The valuation of land prices is carried out by a professional and independent Appraisal Agency (Article 27 of Regulation of the Head of BPN-RI Number 3 of 2007);
- e. Deliberations on determining compensation are carried out directly between Government Agencies that need land and land owners (Articles 31 and 32 of Regulation of the Head of BPN-RI Number 3 of 2007), while the Land Acquisition Committee is only a facilitator in the implementation of these deliberations;
- f. There is a right to object to the form and amount of compensation determined by the Land Acquisition Committee to the Regent/Mayor, Governor or Minister of Home Affairs (Article 41 of Regulation of the Head of BPN-RI Number 3 of 2007).

For this reason, the rights of the people who are protected are also through compensation and deliberations which will be carried out before the land acquisition practice is carried out. So there is no gap between the government's need for the public and justice for the owners of land rights whose land has been taken and disposed of by the government. In addition to protecting people's rights, the government must also be able to close opportunities for land



speculation to arise. To cover the possibility of land speculation, Presidential Decree No. 36 of 2005 Jo. Presidential Decree No. 65 of 2006 and Regulation of the Head of BPN-RI No. 3 of 2007 regulates the following matters:

- a) If the land is designated as a public development site, then a third party who will buy land in the area must obtain written permission from the Regent/Mayor, Regent or Regional Governor of DKI Jakarta (Article 9 BPN-Perkapolri Number 3 of 2007).

In accordance with the concept of national land law, namely that there is a balance between public interests and individual interests, the principle of land acquisition is to obtain land that fulfills the concept of justice, but for people who are disadvantaged in obtaining land by becoming a person. compensation that can guarantee their lives and government agencies that need land to be able to get land and security and legal approval.

To achieve the above, the acquisition of land for development in the public interest through the relinquishment of community land rights must be regulated by law which shows respect and respect for human rights, especially civil rights and economic rights contained therein. . This has not been done in our country. So far, our country does not have specific laws governing land acquisition.

In principle, land acquisition is carried out by deliberation between parties who need land and land rights holders whose land is needed for development activities (Sumardjono, 2008). Regarding land acquisition in Indonesia, it has been specifically regulated since 1975 (fifteen years since the enactment of Law No. 5 of 1960), namely with the enactment of the Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 15 of 1975 concerning Provisions Regarding Land Acquisition Procedures (hereinafter referred to as Permendagri No. 15 of 1975). Until now, these implementing regulations have been revoked and amended several times, namely:



1. Decree of the President of the Republic of Indonesia Number 55 of 1993 concerning Land Acquisition for Implementation of Development in the Public Interest (hereinafter referred to as Presidential Decree No.55 of 1993)
2. Regulation of the President of the Republic of Indonesia Number 36 of 2005 as amended by Regulation of the President of the Republic of Indonesia Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development in the Public Interest.

B. Judge's Consideration of Decision No.277/Pdt/G/2020/Pn.Mdn

In the decision taken in this case, it was found that PT. Subaru & Co. Ltd. ratified by Defendant-II, namely the Government of the Republic of Indonesia Cq. Ministry of Agrarian Affairs and Regional Planning National Land Agency Cq. Regional Director of the National Land Agency for North Sumatra Province Cq. The Head of the Medan City Land Office, then the Petitioner, namely Hardy Tanutama as the heir of PT. Subaru & Co., Ltd., wants the assets owned by PT. Subaru & Co., Ltd. alone. Because he thought he had paid back his hard work in gardening. In August, he learned that the plantation wanted to stop the construction of the Medan-Binjai toll road, but the plaintiffs, the heirs, felt they were being disrespected because they were not invited to talk about their land being used up.

However, regarding this matter, in the decision after reading out the defense of Defendant I and Defendant II, it is known that land acquisition for PT. consider pursuing the wrong subject, so why not notify them of the land acquisition or invite them to talk about it since the plaintiffs or other parties have no clear legal standing to represent PT .Subaru & Co., Ltd, because the plaintiff is a sole proprietor. heir PT. Subaru & Co., Ltd. and PT. Subaru & Co., Ltd. , Ltd. has not yet been transferred to heirs, because according to Article 1 Number 5 of Law Number 40 of 2007 concerning Limited Liability Companies, namely: "The Board of Directors is an organ of the Company which has the authority and full responsibility for



managing the Company for the benefit of the Company, in accordance with the aims and objectives of the Company and represent the Company, both inside and outside the court in accordance with the provisions of the Articles of Association." and reiterated "Thus, no one can represent the company except on the basis of the Board of Directors who authorizes their Legal Counsel to represent the directors in company law cases. In this case, the plaintiff's lawsuit is deemed legally flawed, due to the lack of clarity in the case that occurred, the subject being sued was wrong, and the lack of parties to become witnesses."⁷

Therefore, in the case of court decisions, it is important for judges to include the judge's opinion as an argument for making a decision, the opinion of the judge who decides on civil cases is regulated in the Burgerlijk Wetboek (BW). 48 of 2009 regarding the court, namely have. Contains clear and detailed information b. All judicial duties vs. Unable to provide more than asked for, d) Speaking in public.

Based on this, the judge's decision in Court Decision Number 277/Pdt/G/2020, the judge considered the pseudo responses from Defendant I and Defendant II, in this case the panel of judges ensured that the lawsuit was filed by the plaintiff in this case. The purchase of the land was legally flawed due to an ambiguous decision (*Obscuur Libel*) because the plaintiff was not entitled to continue the disputed case, because the deed stated that the plaintiff was the heir of the shareholder of PT.Subaru Utama & Co. , Ltd. Therefore, the plaintiff cannot represent the company in any form, or rights, asset rights, customers and agents to sue. Then, in response to my defendant and my defendant, the party that filed a misleading claim (*Gemis Aan Hoedanigheid*), the value of the plaintiff's case interviewed by the defendant was made that paid compensation and filed for deposit (import) at the Medan State Court over the land for the construction of the Medan-Binjai road which hit Tanjung Mulia Hilir Village, Medan Deli District, Medan

⁷Law Number 40 of 2007 Concerning Limited Liability Companies, Article 1 Number 5



City. The foundation of the land court is the head of the BPN regional office as the person in charge of the factors that make him the head of land acquisition through the preparation of accounting and identification, determination of experts and research that determines these matters. kind of death so that my and this defendant are not involved in the collection of the municipal land in question. Land acquisition for the Medan-Binjai Toll Road Development Project, land procurement or appointed officials, land acquisition or elected officials, in this case the plaintiff is qualified to have committed corruption so that it is not declared (*Niet Ontvankelijke Verklaard*).

Because the lawsuit filed by the plaintiff was a small party (the Plurium Litis Consortium), the arguments in the case stated that the community had obtained the land as compensation and the plaintiff also acknowledged that 86 certificates of ownership had been issued over the agency's land. released, should be. is for the plaintiff to withdraw compensation from the beneficiary country to the plaintiff and the licensee including the defendant for pressing to prove their rights and the origin of the conflict. Therefore, the plaintiff was deemed not eligible and based on the decision of the Supreme Court of the Republic of Indonesia, it was stated that the minority claim did not. And there is a conflict/contradiction between Posita and Petitum in the A Quo case causing a violation of the principle of clarity in the application of cases based on civil justice practices, thus giving rise to false accusations. Therefore, based on some of the above, it is logical that the judge's decision for the jury that considered, tried and decided on the case stated that the decision of the Defendant did not meet the legal requirements of the case in doing so. must be declared completely unacceptable (*Niet Ontvankelijk Verklaard*)

"In the case the author is discussing, the substance of the case being questioned by the Plaintiff was motivated by the actions of Defendant I who had paid compensation money and made a deposit request (Consignment) to the Medan District Court for land objects affected by the Medan-Binjai toll road construction project which caused misunderstandings occur. This problem does not only involve



land acquisition by the government for the construction of the Medan-Binjai Toll Road, but also because of the desire of the heirs of PT.Subaru & Co., Ltd. to covet what is not their right.

So, all lawsuits filed by the Plaintiff or the heirs of PT.Subaru & Co., Ltd do not qualify as good lawsuits, because the plaintiffs themselves do not have strong enough legal standing to represent the company and covet the assets belonging to the company, the subject they are suing. also the wrong subject, and the entire lawsuit is legally flawed (Obscure Libel) because the defendant has followed the applicable legal procedures in accordance with the regulations for the application of applicable authority, and also the plaintiff does not have many witnesses to use as an excuse or legal force in suing Defendant-I and Defendant -II.”

III. CLOSING

A. Conclusion

1. Regarding the Judge's Consideration of the Decision Number. 227/Pdt/G/2020/Pn.Mdn

From the statement above it can be seen that although the right to acquire land is regulated by Presidential Regulation Number 36 of 2005 which was later amended by Presidential Regulation Number 65 of 2006 and at the same level as the Head of the National Land Agency (BPN), availability. Land is organized based on BPN Regulation Number 3 of 2007 concerning implementing provisions of Presidential Regulation Number 36 of 2005 concerning land acquisition for the implementation of development and general welfare. If the government has gone to free land according to the Constitution for the implementation of existing laws, then the government can no longer demand this, because actually the government has prepared everything to avoid legal defects but it is a deficiency. rights of landowners by giving their land to the government for public interest. . Different things can happen if the government does not call for talks or release us immediately



even though we have legal status to our land and the government does not pay for our property then this can happen let's be like the community with us. rights are assumed without compensation. Therefore, judging from the principal case examined by the plaintiff, the basic actions of the defendant were to pay the bail and submit a bail (recommendation) at the Medan District Court for the needs of the Medan-Binjai road. project. . This problem is not only due to land acquisition by the government for the construction of the Medan-Binjai Toll Road, but also because of the wishes of the heirs of PT. Subaru & Co., Ltd. let them seek what is not rightfully theirs. regardless of legal status.

Therefore, any lawsuit filed by the plaintiff or the heirs of PT. Subaru & Co., Ltd. is not considered a valid claim, because the plaintiffs themselves do not have full legal capacity to represent the company and claim the company's assets, subject to the fact that they also wrongly sued the subject, and the whole case is valid (Obscur Libel) because the defendant followed the legal procedure as a legal procedure to apply a valid license according to, and also the plaintiff did not. many witnesses will be used as reasons or legal force to demand indictment-1 and indictment-II.

2. Concerning the Development of Land Acquisition in Indonesia according to Positive Law.

Basically, Land Procurement activities for development for This public interest does look more complicated than one might think. Land acquisition in Indonesia has been around for a long time, and the regulations governing it have continued to change until they arrived at Law Number 2 of 2012 which is still valid today. Preparation until its implementation must be prepared carefully. Apart from that, because the acquisition of this land involves the existence of a broad community interest and the community's rights to a land are also taken, therefore in general we also know that when we take other



people's goods we must also be able to provide appropriate compensation because in this case it is not only a land that is taken but there are community rights that we also take, and when the compensation is not appropriate.

B.Suggestion

1.For Law Enforcement

In Attempts to Acquisition of public land for he did infrastructure development, be it toll roads or any public facilities, the author suggests that law enforcers or land takers should pay more attention to the applicable regulations, not just because they want to speed up a development, they sacrifice the rights of the community which they should get according to their rights. Law enforcers must be more able to see the needs of owners of land rights to the wishes of infrastructure development by paying attention to ownership rights Publicfor the land, and the provision of compensation must also be in accordance with the size of the land adjusted to the inventory map, because the rules regarding the stages of land acquisition have also been enacted by a law so they cannot be violated or simply ignored even though in practice they are not always conducted well. So for that matter, it would be better if the land acquisition had to invite both parties to sit down and discuss the land acquisition in order to get compensation that is commensurate and in accordance with the wishes of both parties.

2. For Society.

Every community has the right to adjust their rights to the stages of the land acquisition process that are valid and stated because in land acquisition there are rights to land for each ownership that is taken by force for development in the public interest, such as the construction of toll road infrastructure. With the stages listed in the applicable laws and regulations, then when deliberations are held or in land acquisition this is called public consultation, landowners



and parties who take and need land must reach an agreement and must be in accordance with the wishes of the party whose land was taken. The community also has the right to disagree if the nominal compensation is not given according to what it should be. Public consultation is carried out so that the parties can be open to each other and no one feels disadvantaged, so the most important thing in a deliberation in terms of land acquisition is to get an agreement so that each party does not feel disadvantaged, whether the community whose land was taken can get compensation that is worth it and also does not burden the taker of the land.

BIBLIOGRAPHY

A. Book

- Mudakir Iskandar Syah, Land Acquisition for the Development of Public Interests, Legal Remedies for Communities Affected by Acquisition and Revocation of Rights, Jala Permata Aksara, Jakarta, 2014.
- Rusyadi, A. (2009). LAW OF LAND PROCUREMENT FOR PUBLIC INTEREST: Between Public Interest and Protection of Human Rights *Man* .
- Salindeho, J. (1988). The Land Problem in Development (40 ed.). Jakarta: Graphics Light.
- Sumardjono, MW (2008). Land: In Perspective of Social and Economic Rights *Culture*. Jakarta: Kompas.

B. Legislation

- Regulation of the Minister of Home Affairs Number 15 of 1975 Concerning Provisions Regarding Land Acquisition Procedures.
- Regulation of the Minister of Finance No. 58/PMK.02/2008 Concerning Land Acquisition Committee Fees for Development Implementation in the Public Interest.
- Presidential Regulation No. 36 of 2005 concerning Shared Land Procurement Implementation of Development for the Public Interest.



Presidential Regulation Number 65 of 2006 concerning Amendments to Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Interests.
Law Number 20 of 1961 Concerning the Revocation of Land Rights and Existing Objects On.
Law Number 2 of 2012 concerning Land Procurement for Development For Public Interest.

B. Journal Article

Suntoro, Agus. "Assessment of compensation in land acquisition for public interest: a human rights perspective." *BHUMI: Dan Agrarian Journal*5, no. 1 (2019): 13-25. Retrieved October 16, 2022.
Subekti, Rahayu. "Policy of Provision of Compensation in Procurement Soil For Development in the Public Interest." *Yustisia Law Journal*5, no. 2 (2016): 376-394. Retrieved 16 October 2022.
Djanggih, Hardianto, and Salle Salle. "Legal Aspects of Land Procurement for Implementation of Development for the Public Interest." *Pandecta Research Law Journal*12, no. 2 (2017): 165-172. Retrieved 22 October 2022.
Kasenda, Dekie GG. "Compensation in Land Procurement for Interests General." *MORALITY: Journal of Law Science* 2, no. 2 (2017): 122-141. Retrieved 27 October 2022
Zarkasih, Hery. "Implementation of the principle of justice in the provision of compensationland acquisition for public interest (case study of widening highway in Praya City, Central Lombok Regency)." *Journal of IUS StudyLaw and Justice*3, no. 2 (2015). Retrieved 7 November 2022.

C. Excerpts of Scientific Papers/Paper/Orations

Dhenes, IM (2016). Implementation of the the authority of the local government inland procurement for public interests in banyumas district. Master's thesis. Semarang, Indonesia.

D. Website

JDIH. (2009, November 25).*JDIH CPC*. Retrieved 2021, from Legal Documentation & Information Network of the Supreme Audit Agency of the Republic of Indonesia:<https://jdih.bpk.go.id/?p=6491>



E. Decision

Medan District Court Decision No.227/Pdt.G/2020/Pn.Mdn