

Protection for Land Right Holders Used In Economic Area Development in Praya

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Abstract

In Central Lombok there are problems regarding the Development of Special Economic Zones located in Pujut District, Praya, Central Lombok. The project was carried out by PT. X with an area of 1,035.67 Ha and facing the Indian Ocean, the project is expected to grow potential and explore more about the tourism sector in West Nusa Tenggara Province. This research aims to describe or provide an overview of legal protections for land rights holders and explain what obstacles are experienced in this study. This research uses an explanatory method which means that research is carried out to find answers to problems by examining legal sources that are related to the formulation of problems. Data collection techniques used by literature studies and interviews to corroborate the secondary data needed. The data analysis technique used is qualitative. The results obtained that legal protection that can be given to holders who have property rights in Kuta Village located in Central Lombok Regency, with problems regarding claims made by other parties in the development of special economic zones have been listed in the principle of national land law and Law No. 2 of 2012 concerning Land Procurement for Development for Public Interest so that there is a need for compensation for losses experienced fairly and appropriately. in accordance with the agreement of both parties so as to achieve equality in providing their respective views and desires. There are obstacles in the form that both parties cannot find a bright spot regarding the amount of compensation.

Keywords

Protection; law; right; land



I. Introduction

One of the natural resources that is inexhaustible and very important in human survival as the basis for development is called land. Land becomes a relevant thing to use one's property rights. When carrying out development, preparations will be made based on existing policies, namely into the land sector which has been regulated in Article 33 paragraph (3) of the Law. The verse gives the meaning that the earth and its contents are controlled by the State which will be used for the welfare of the people. Because of the consideration of people's prosperity on land rights, land rights have been regulated in Article 16 paragraph (1) which states that there are 8 (eight) land rights owned, namely "use rights, lease rights, land clearing rights, forest product collection rights". Property rights, cultivation rights, building rights, and other land rights. Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020)

Even though it has been well regulated, there are still very often problems related to land rights or the transfer of land rights. These problems, among others, occur because there is a disagreement regarding several aspects of land rights. These problems, among others, occur because there is a disagreement regarding several aspects of land rights. The disputes that occur do not only involve citizens (individuals), but also between individuals and groups or corporations, even between individuals or groups of individuals and the state. In the latter case, the state is tasked with and is responsible for continuing the wheels of national development, some of which will require access to land management or use. Conflicts then arise when individuals who feel or do have rights to the land, for various reasons, are not willing to give up their rights to the state. The goal is that a development can be properly monitored and maintained in accordance with the needs and existing facilities. For this purpose, there must also be interests that require land parcels so that there must be legal efforts by the government to be able to acquire land in carrying out development which is carried out through the liberation of rights or revocation of rights.

One of the rights that is often accepted by the community is the right to land power, but this problem becomes a conflict that often occurs to cause great disputes until it must be resolved according to existing legal channels. Land is indeed given by God as the basis for our journey and development to live as human beings, still in the regulations that have been regulated by the state, land in a region is the power that is held by the state. From here, it is necessary to manage the land sector so that people can have land ownership rights in their home area. Land is indeed used as an important thing, especially in sustainable development carried out by the state so that it becomes the center of the economy and culture. In this case, In this case, the problem that occurs is in the Special Economic Zone development area which is located in Pujut District, Praya, and Central Lombok. Where the development carried out by a large company, namely PT. X.

Mutual claims on land usually occur between the community and PT. X where the community is the holder of the land ownership rights on the object of the dispute but the PT. X also believes that the land that is the object of the dispute is State land with the status of Management Rights. Referring to several online news portals, land disputes in the Special Economic Zone in Central Lombok are quite common. The latest case is the fencing of part of the land, from the area where the MotoGP Circuit will be built, by local residents because they think that the land belongs to the residents and has not been paid for by PT.X. To this day, no solution has been found for the problem in this case, and the case has even gone up to the investigation stage with the stipulation of 2 (two) residents as suspects. The purpose of this study is to be able to describe the efforts of legal protection for land rights holders in Kuta Village, Putut District, Central Lombok for claims from other parties regarding the development of Special Economic Zones, as well as provide an overview of whether or not there are obstacles that hinder efforts to procure land in the area resulting from the development of the Special Economic Zone.

II. Research Method

This research was carried out with the main focus of the object of research, the nature of the research, data collection, data and data sources, the type of research, data analysis and how to draw conclusions. The main focus of the research object used is legal norms in laws and regulations with regard to legal protection for land rights holders for the community in Kuta Village, Pujut District, Central Lombok Regency, West Nusa Tenggara Province as well as what legal obstacles are faced in land acquisition in the area which results in the development of Special Economic Zones. This research is related to legal

protection that imposes a burden on land rights holders used in the development process in the Special Economic Zone area in Central Lombok Regency, West Nusa Tenggara Province. explain things in more depth, test or clarify hypotheses.

III. Result and Discussion

3.1 Legal Protection for Owners of Land Ownership in Kuta Village, Pujut District, Central Lombok, Claimed by Other Parties in the Development of Special Economic Zones

The approval for the development of the Special Economic Zone in Praya has existed since 2014 as stipulated in Government Regulation no. 52 of 2014. According to the statement of Mr. Lalu Nawarman as the Head of Kuta Village Government, the determination of the location for the development of this Special Economic Zone, has not changed, as has been adjusted to an RTRW (Regional Spatial Plan) that has been carried out. So the basis for establishing the Special Economic Zone was formed based on the Decree of the Governor of West Nusa Tenggara No. 912-825 of 2014, for the administrator of the Mandalika Special Economic Zone based on the Decree of the Central Lombok Regent No. 512a of 2014 in conjunction with the Governor's Decree No. 972-403 of 2015 while for the appointment of development and management business entities based on the Decree of the Central Lombok Regent No. 513a of 2014. "Development of Special Economic Zones includes 4 villages in Pujut District, namely Mertak Village; Kuta Village; Sengkol Village; Sukadana Village."

Kuta Village is the village that is used as the object of research because it is the village most affected by the development of the Mandalika Special Economic Zone, where 50% (fifty) percent of the development area is located in Kuta Village, Pujut District, Central Lombok, which has the potential for a marine area of approx. 2,500 Ha, this often causes land disputes.

There is a principle that is carried out in land acquisition so that the public interest can be used in accordance with the principle of justice in respect of land rights which is indeed one of the efforts to balance prosperity and is carried out with deliberation associated with the community itself. In the process of respect, it has actually been recognized and stated in the "UUD 1945 Article 28D paragraph (1)" which states "Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law." In this implied principle, it becomes one of the momentums for the rights held by someone in order to get the real rights so that even in the law of the land that person can be protected and prevent the occurrence of duping or losses committed by others. From this, it can be seen that land rights that have been controlled by someone are not easily snatched away by directly taking over or against the law because there are ownership rights that need to be passed and signed according to the existing agreement of the individual himself.

The problem that occurs is that stakeholders such as the government need to take good actions towards their people. Actions that need to be taken are actions in the form of solutions so that they can provide high prudence in carrying out development carried out by the government itself. Justice must also be considered by the government because this sense of community justice is an interest that must be seen and reviewed further. The community also has land rights so that it is necessary to carry out land procurement justice which aims as legal protection that is indeed happening in the community. Based on the results obtained, there are several kinds of legal protection.

Legal protection of land is also one of the things that need to be done to people or even legal entities so that land that is held or land that has become a person's rights can be registered based on the UUPA regulation Article 19 paragraph (1) which states "To guarantee certainty By law, land registration is carried out by the Government throughout the territory of the Republic of Indonesia according to the provisions stipulated in Government Regulations."

Then there is the second protection, namely legal protection in the form of repressive. This law is the last protection because of sanctions that are sentenced, such as fines, imprisonment or other punishments. This protection occurs if there has been a dispute or there has been a violation related to the land sector, then from there repressive protection exists because there is a goal, namely to provide resolution of problems in land disputes. This protection is also one of the handling carried out by the court. Actually, there are 2 (two) more types of repressive legal protection, namely the need to provide protection through the National Defense Agency. This is what will provide a certificate as proof of ownership of a right if it is associated with ownership rights or the publication system that has been regulated in Indonesia so that sometimes this system is considered negative but will continue to lead to positive publications because someone who owns or holds this certificate considered the legal owner of the land. The basis of rights, namely control, is considered as control of land rights in accordance with the judiciary so that it can provide tools that are indeed evidence for determining or explaining the relationship between land law and land ownership. From there it will also provide information on the history of the land owner which was indeed published by government officials or obtain evidence from officials who have authority.

As it is known that the National Land Agency is an official who is in charge of regulating administration and providing a certificate of land ownership which is one of the decisions of the State Administration, the dispute is called a dispute of state administration. The process of resolving this dispute case is said to be complicated, namely through 2 (two) ways, namely court or administrative. The administrative method is indeed carried out in the form of an effort that feels burdensome to the community so that it is submitted to the official who issues the State Administrative decision so that the land office will prioritize the settlement using administrative methods and the dispute resolution process can be carried out by the district land office. Central Lombok. The way this is done is that mediation can be carried out which is a form of protection for the community because of disputes in their area. Mr. Sumardiono also explained the same thing, previously he was the Head of the District Defense Office. Central Lombok, one form of legal protection that is intended for the community is the right of land ownership due to mediation or deliberation.

However, in conducting mediation at the district land office. Central Lombok, some people in Kuta Village often get disappointed in the process. This is because in the implementation of mediation, the related parties often do not fulfill the call for mediation to the district land office. Central Lombok.

As said by Mr. Lalu, one of the people of Kuta Village, that the land office's efforts to resolve this issue by holding mediation is one of the most appreciated efforts, but often the parties concerned or the reported parties are not present to answer the summons so that no common ground or agreement can be found for settlement of the land.

From the interview above, every issue of ownership of land rights in Kuta Village before taking legal action in the Court first conducted mediation (consensus). However, not all of these problems resulted in an agreement so that the problematic party took legal action at the State Administrative High Court. Legal Protection by the State Administrative

High Court, where the certificate of land ownership rights becomes concrete, final and individual. Because of its nature, namely concrete, it becomes an object that has been decided by the government which is no longer abstract but has been legally manifest. In contrast to the individual, the individual can be interpreted that the decisions made by officials are not directed by the general public but only to the individual who is really concerned.

In the statutory provisions it has been written in full regarding the existing problems where in Article 53 paragraph (2) of the State Administrative High Court Law, the first thing can indeed be done in court, but this decision is contrary to the existing regulations with the principle of which has prevailed in general in good governance. However, it will apply if the decision used is more structured, well-procedural or formal. It can be concluded that even though it is contrary to the provisions and decisions that are substantial or material in nature, the agency or agency that operates does not have more authority. Disputes on state administration are also submitted by the high court so that they can be processed further and in more detail.

In the description that has been written by the researcher, it can be concluded that the certificate issued by the legal entity, namely the National Defense, is one of the decisions made by the government. If the certificate obtained is administratively flawed, it will have a negative impact, namely harming the other party who is the party who has ownership of the certificate. An administrative defect becomes a dispute or a lawsuit for a state administrative dispute that is indeed submitted by a high court so that the certificate can be canceled. So the protection that must be done is based on repressive protection that is able to provide cancellation of the land certificate because there is a disability. This has been linked to the principle of land acquisition which is one of the legal protections for land rights owners in Kuta Village, Pujut District, and Central Lombok Regency. Where there are several principles, namely (1) "Humanity Principles; that in the process of land acquisition for the development of this Special Economic Zone, there must be legal protection and respect for human rights, especially protection and respect for parties affected by the land acquisition project." (2) "The Principle of Justice; that in the process of land acquisition for the development of Special Economic Zones, the holder of land rights in Kuta Village, Pujut District, Central Lombok Regency must provide a guarantee of appropriate, appropriate, and fair compensation to the holders of land rights in Kuta Village, Pujut District, Central Lombok Regency, so that the holders of land rights can live a better life. " (3) "Principle of Benefit; that the results of land acquisition for the development of Special Economic Zones are able to provide benefits for the interests of the wider community, nation and state. Especially for parties affected by the land acquisition project." (4) "Principle of Certainty; that in the process of land acquisition for the development of Special Economic Zones must provide legal certainty of the availability of land for such development and provide guarantees to parties entitled to compensation." (5) "Principle of Openness; that in the process of land acquisition for the development of Special Economic Zones, it is necessary to provide information and knowledge related to land acquisition for such development to the community regarding the objectives and benefits of such development so that parties affected by the development project can understand and accept the aims and objectives of land acquisition for development in the area. This Special Economy." (6) "Principle of Agreement; that in the process of land acquisition for the development of Special Economic Zones, deliberation must be carried out between the agency requiring the land and the holder of the land rights, so that the people affected by the development project do not feel disadvantaged.

Holders of land ownership rights must also have legal protection for their land in Kuta Village, Pujut District, Central Lombok Regency in the development of the Special Economic Zone, namely mediation by means of deliberation from the ownership holder with institutions that require an agreement that is not subject to any coercion or which can harm one of the parties. Mediation which is carried out by means of deliberation does have a goal, namely in the transaction to get an agreement between the two parties, namely between the agency and the holder of the land rights ownership that requires the form or amount of the loss that has been experienced by the owner or holder of the land rights.

The provision of compensation is one way of legal protection that is considered the most essential for land acquisition because it can be of general importance. The process of providing compensation must be given properly and fairly in accordance with the applicable laws and regulations, which is contained in "Article 1 of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest" which reads: "Land procurement is an activity to provide land by giving proper and fair compensation to the rightful party.

The article explains that the compensation given must be fair and appropriate, this can mean that the compensation given must be in accordance with the previous calculation, so that it can be stated that the compensation given is fair and appropriate or not. In addition, legal protection regarding land acquisition intended for development based on the interests of the general public is through deliberation to reach an agreement on the amount and form of compensation to be given to the holder of the land rights.

The calculation of the nominal and the amount of compensation will be carried out by a land assessment selected by the National Land Agency (BPN), the assessment carried out will be regarding the above and below ground space, buildings, land, and all objects related to land and the presence or absence of losses others are assessed. Article 36 of Law Number 2 of 2012 which covers Land Procurement for Development in the Public Interest explains that "the compensation provided can be in the form of replacement land, money, share ownership, resettlement, and can be in other forms according to the approval of the both parties.

Although there are various forms of compensation, they still prioritize the form of compensation with money which is considered by the community to be more ideal. Compensation is one of the legal protections for land rights holders in Kuta Village, Pujut District, and Central Lombok Regency, the amount of which is agreed by way of deliberation so that the community gets appropriate and fair compensation. The provision of compensation is an essential legal protection in land acquisition for the public interest.

"Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest Article 1 point 10" where the definition of compensation is "A proper and fair compensation to the entitled party in the land acquisition process." Although in terms of land acquisition for the development of Special Economic Zones there are still some land rights holders who have not accepted or rejected the amount of compensation that has been determined by the Government and PT. X The government in this case continues to facilitate the parties until an agreement is reached on the amount of compensation for the development of Special Economic Zones. In the context of the process of resolving land conflicts, the Central Government and Regional Governments determine the procedures or provisions for the amount of compensation based on the Operational Standards that have been determined in accordance with the procedures, namely: (a) conduct field verification to obtain information in the field; (b) conduct clinical meetings and; (c) designing and making news related to the examination treatment program carried out by the West Nusa Tenggara POLDA. So as to obtain certainty of ownership status in determining the amount

of compensation that is appropriate and fair. The request for compensation is one of the legal protections that is indeed applied to holders of land rights owned in the Kuta Village area, Pujut District, Central Lombok Regency.

4.2 Constraints Faced in Land Procurement in Kuta Village, Pujut District, Central Lombok Due to the Development of Special Economic Zones

The special economic zone is one area that does include a regional area that is specifically designed to increase the economy so that it will definitely be given a facility that is more related to a certain special economy. The existing regulations, namely Article 2 of Law Number 39 Year 2009 also provides an explanation of this area because it needs to be further developed by selecting areas to be prepared with advantages from other places, such as from the geostrategic and geoeconomic side that can function. as a place for activities from exports, imports, production of goods or other activities that can make the area have international competitiveness and high economic value.

Based on existing regulations, this area is also included in Article 1 of Law Number 39 of 2009 regarding Special Economic Zones, namely "Special Economic Zones, hereinafter referred to as SEZs, are areas with certain boundaries within the jurisdiction of the Unitary State of the Republic of Indonesia which are designated to carry out functions economy and obtain certain facilities." It is known that this special economic zone in Mandalika has an area of about 1,035 hectares which is located in the area of Kuta Village, Pujut District, Central Lombok Regency. Where this area also has territorial boundaries including the southern part bordering Aan Bay, Serenting Bay, and Kuta Bay. It is different from the border in the east, which is bordered by the villages of Sengkol and Mertak.

In the context of land acquisition for the development of Special Economic Zones, there are obstacles in the implementation of the Special Economic Zone development projects, where the object used as land acquisition for the development of Special Economic Zones 50% (fifty) percent of the area of development land is land owned by residents of Kuta Village, Pujut District, Central Lombok Regency.

The proper procedure for land acquisition for development in the public interest is in accordance with the provisions of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest and in accordance with Presidential Regulation Number 71 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest, namely Phase Planning (Articles 3-7 of Presidential Regulation Number 71 of 2012), Preparation Phase (Article 8-48 of Presidential Regulation Number 71 of 2012), Land Acquisition Implementation Phase (Article 49-111 of Presidential Regulation 71 of 2012) and finally the Stage of Submission of Procurement Results Land.

The first stage is the planning stage (Articles 3-7 of Presidential Regulation Number 71 of 2012), where parties who need land or agencies that require land areas need to make and prepare planning documents so that they can be submitted to parties who have an obligation to make decisions, namely the government. RTRW and priority development. The document in question contains at least how and what the objectives of the development will be; What suitability has been planned based on the spatial layout of the area and the priority of the building, where the land is located, the total area of land to be built; what is the description of the status of the area; mention the estimated time of execution or time to carry out the project being carried out; estimate the amount and value of existing land; design the budget needed for the project to run to the end. In the planning process stage, government agencies also require proposals for development planning activities with a time span of about 1 (one) year before the project is carried out and a span

of 1 (one) year being the slowest timeframe for the purpose so that the Defense Agency can consider it if there is a governance plan. the location of the area that has a potential impact on the economy for the prosperity of the wider community.

The second stage is the preparation stage (Articles 8-48 of Presidential Regulation Number 71 of 2012). This preparatory stage does need to be escorted in the form of a preparatory team by the Governor which is formed 10 (ten) days before the implementation and no later than. If you have received the documents related to the planning for this land acquisition, the preparatory team consisting of the Regent and the Mayor will become a work unit in the area of the province. This process also occurs because there are agencies that require land areas to be used for development. In this second stage, if it is carried out smoothly, the preparation team previously formed by the Governor will form a secretariat in the land acquisition preparation team which has a position in the area of the Provincial Secretariat.

The preparatory stage for land acquisition for the development of the Special Economic Zone begins after the receipt of the planning documents by the Central Lombok Regency government. At this stage the Governor of West Nusa Tenggara forms a preparation team within a maximum of 10 (ten) working days. The preparatory team for the development of the Special Economic Zone is the Regent of Central Lombok Regency, Regional Secretary of Central Lombok Regency), Head of the Service West Nusa Tenggara One Stop Investment and Licensing (DPMPTSP), Kuta Village Head, Sengkol Village Head, Sukadana Village Head, Mertak Village Head, and the Business Entity Builder and Manage PT. X.

The task that will be carried out by the preparation team is to provide notification of the development plan, conduct preliminary observations and data collection on the selected location, public consultation regarding the development plan, announce the selected location, after the construction site is selected it is necessary to prepare all the necessary things, news regarding the selected location is disseminated to the public for the public interest, to carry out other tasks regarding the preparation in accordance with the tasks assigned by the Governor so that it can fulfill the public interest.

The third stage is the Land Procurement Implementation stage (Articles 49-111 of Presidential Regulation 71 of 2012), in which the agency that carries out the implementation of land acquisition is a national defense agency carried out by the head of the regional office of the BPN (National Defense Agency) who will be the head of the implementation of the Land Acquisition. land acquisition. The membership composition of the land acquisition executive is; (a) Acting expert regarding the affairs of Land Procurement in the area of the BPN Regional Office; (b) Head of the Land Office in the area where the Land Procurement takes place; (c) The official of the provincial regional apparatus performance unit who controls the field in the land affairs section; (d) the sub-district head in the Land Acquisition study site and; (e) Lurah/village head or other names in the area of the Land Procurement location. For efficiency, activity, taking into account geographical conditions, and human resources, the Head of the BPN Regional Office may assign the Head of the Land Office as Chief Executive

The executor, namely the chairman, will build and carry out the formation of a task force that has been planned. This division aims to be a responsible unit because the chief executive does have skills in the field of identification and inventory, for example, such as data used for control in the form of physical data on ownership, utilization or use of land. who is the object of land acquisition or who is entitled to this land acquisition. Meanwhile, the activities carried out by this task force are compiling a timeline of events to be carried

out, then if necessary, coordination with the government in the area of the location starts from the Head of the Neighborhood Association (RT), Lurah or Village Head,

The results of the identification and inventory of data on parties who have rights and objects in land acquisition this time, a map of land parcels and a nominative list are produced which will then be signed by the Head of the Task Force. The list will be used as one of the data in the process of determining the value of compensation. The task force will carry out these activities with a maximum time span of 30 working days, with the results obtained will be given to the head of the task force and the head of the implementing activities from land acquisition which are then used as an official report which is used as the result of the identification and inventory. Parties who object to the results of the identification and inventory will submit to the chief executive of land acquisition within a maximum period of 14 working days calculated from the announcement of the results of the identification and inventory. The correction and verification regarding the submission of the objection will be carried out within a maximum period of 14 working days calculated from the receipt of the objection file regarding the results of the identification and inventory.

The fourth stage is the last stage because this stage is the stage of submitting the results of the land acquisition that occurred. So, the entire process that has been passed will be handed over from the chief executive of land acquisition to the agency that requires the land area and accompanied by existing data. In this case the process is carried out⁷ (seven) working days since the release of the object of land acquisition rights. In this handover process, an official report must also be made so that it can be used for agencies if there is a certificate or registration of land ownership rights. While this certificate and registration is mandatory to do in order to give written rights, but in this process it needs to be done no later than 30 (thirty) days from the submission of the results.

In addition, it was also stated by Mr. Lalu Nawarman that the development constraint was caused by several cases where someone who felt he owned the land because he had inherited it from his parents made a complaint to the land office because the land was claimed by another party.

Another case occurred, where the land which became the object of the Special Economic Zone development was certified by PT. X even though the land owner admitted that he did not sell his land to PT. X, so that PT. X recognized the land that was used as the object of development as his land. with the status of Management Rights.

V. Conclusion

1. The conclusion is that the legal protection that can be given to property rights holders in Kuta Village, Pujut District, Central Lombok Regency which is claimed by other parties in the development of Special Economic Zones is contained in the principles of national land law and Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest, namely by being given appropriate and fair compensation based on an agreement for compensation deliberation in order to achieve equality in conveying views and wishes. With a fair and proper provision for compensation, so that there will be no complaints from the owners of land rights in the area. The provision of appropriate compensation is a form of legal protection for holders of land rights in the area in order to increase the prosperity of the people and as a form of respect for human rights. In addition, repressive legal protection in this case can be done by canceling or revoking problematic land certificates for parties who are not entitled.

2. Procurement of land that will be used for the development of Special Economic Zones has obstacles in the form of not finding a solution regarding the amount of compensation that has been requested by the party who needs the land and the holder of land rights in Kuta Village, Pujut District, Lombok Regency. This disappointed the community holding land rights in the area. If after repeated deliberation efforts to determine compensation are carried out there are still people holding land rights who refuse compensation and do not submit their objections to the local District Court within a period of 14 (fourteen) days, a consignment will be carried out or known as the custodian of compensation loss in the local District Court. Other obstacles contained in land acquisition for the development of this Special Economic Zone.

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