
JURIDICAL ANALYSIS OF THE FORMATION OF A LAND BANK AS AN EFFORT TO RESOLVE AGRARIAN CONFLICTS

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Received: 01-09-2022

Accepted: 05-09-2022

Published: 20-09-2022

ABSTRACT

Agrarian conflicts can occur between individuals and individuals or individuals with groups or business entities or with the government. Throughout 2020, 241 cases of agrarian conflict were found. The existence of the Job Creation Law which also regulates land affairs contains provisions regarding the existence of the Land Bank as an institution that can oversee abandoned state lands to be used for the greatest prosperity of the people. In fact, a number of problems were found related to the existence of this Land Bank which tended to be unable to bridge agrarian conflicts between parties. This study aims to describe how effective the Land Bank is in resolving agrarian conflicts. This research is a normative legal research with a qualitative approach. The results show that the existence of a Land Bank with a non-profit principle actually benefits the private sector who wants to use the land through the Land Bank. The absence of a Government Regulation on land banks also means that this institution does not yet have the legal umbrella to implement it. Utilization of abandoned land that the state can take for granted is also considered to be impartial to the existence of farmers as small people, and then they are discovered. In the control of the Land Bank, the benefits can be enforced and used in accordance with the actual procedures. The use of abandoned land that the state can take for granted is also considered to be impartial to the existence of farmers as small people, then discovered. in the control of the Land Bank, the benefits can be enforced and used in accordance with the actual procedure. The use of abandoned land that the state can take for granted is also considered impartial to the existence of farmers as small people, and then discovered. in the control of the Land Bank, the benefits can be enforced and used in accordance with actual procedures

Keywords: Agrarian Conflict, Land Bank, Job Creation Act

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INTRODUCTION

In the life of the nation and state, the government has an obligation to ensure the fulfillment of basic rights for its citizens such as housing, decent work, clothing, adequate food and an adequate environment, so that the State is required to empower every inch of land in the territory of the State. Unitary Republic of Indonesia. Land is one of the most important and main factors in human life, because in reality humans cannot be separated from the soil at all. Humans live on land (residence) and obtain food by empowering the land, moreover land has a very emotional relationship with humans. Everyone definitely needs land, not only in life, even when humans die, they still need land as a place to rest.

The complicated land acquisition then makes the rights of other parties, namely the government or the private sector more in need and able to take advantage of the land parcels immediately to be unfulfilled so that the potential for welfare that will be obtained cannot be realized.

The problem in the complex land sector is the availability of land for development needs, whether for infrastructure development, public facilities, food security, national defense, natural disaster mitigation or investment. Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest and its derivative regulations are considered ineffective in solving various problems related to the increasing land prices and the availability of land for various development purposes.

Judging from the history of human civilization, land has not only high economic value, but also philosophical, political, social, and cultural values. Land also has a very strategic function of its natural resources or is used as a space for development. In addition to meeting the basic needs of citizens, the government also needs land to fulfill strategic/priority programs such as housing and settlements, business and tourism development, energy and food security, infrastructure, connectivity, and maritime affairs as well as regional development in general (Suyudi & Suhattanto, 2018). However, in this vast country of Indonesia, there is still a lot of abandoned land whose use is not clear. The abandoned lands tend to be used only as objects of speculation. In addition, the problem of land acquisition is a problem that always arises in development activities. The problem is that land speculators often take advantage of infrastructure development projects (Kafrawi & Kafrawi, 2022).

No wonder land is a special treasure that constantly provokes various complicated and complicated social problems. The land includes immovable property whose ownership must be based on a deed ratified by a Notary/PPAT so that its validity can be guaranteed. Regarding the status of ownership, land and natural resources attached to it are vulnerable to conflict or dispute, or what is known as Agrarian Conflict. Conflicts occur within the scope of the region, the parties involved and the impact is getting wider and deeper. This condition is caused by the unequal distribution of land. These disputes and or conflicts have even occurred decades ago. This agrarian conflict can occur between individuals and individuals and groups or business entities.

Currently, the Government needs to look at the infrastructure development that is most needed by the community, related to guaranteeing the availability of development land, especially with the community's need for land which continues to increase with the increase in population. The establishment of an institution that handles land acquisition is very important to avoid inequality in land availability with the Government's efforts to carry out development.¹ Land procurement for the public interest aims to provide land for the implementation of development in order to improve the welfare and prosperity of the nation, state and society while still guaranteeing the legal interests of the land owners who are entitled to the land.

The transformation of land management institutions from the National Land Agency to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the Joko Widodo Government Working Cabinet, has made the duties and authorities become even greater, to carry out President Joko Widodo's vision and mission, namely food sovereignty and economic independence, which are currently This will be achieved through priority programs for agrarian reform, land acquisition and asset legalization. Even at the beginning of the formation of this ministry, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency stated that some of the ministry's work focuses were related to handling land disputes, improving

services to the community, establishing a land bank, providing land for development and structuring the ministry's organizational structure(Suyudi & Suhattanto, 2018).

Secretary General of the Agrarian Reform Consortium (KPA), Dewi Kartika revealed, throughout 2020 there were 241 (two hundred and forty-one) cases of Agrarian Conflict. -nine) regions in Indonesia with 135,332 (one hundred thirty five thousand three hundred and thirty two) heads of household (KK). Conflict is associated with discord, disharmony, or conflict, the most extreme condition of conflict is violence. The conflict involves opposing parties. Regarding Agrarian Conflicts, Agrarian Conflicts are land conflicts. In the context of land law, agrarian is defined as the surface of the earth as referred to in Article 4 paragraph 1 of Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles. Based on this, it can be interpreted that the notion of agrarian has a broad meaning, namely earth, water, and the natural resources contained therein (Ardiansyah, 2020).

Kurniawan, (2018)², explained that one of the objectives of the enactment of the UUPA was to provide legal certainty. This goal can be realized through 2 efforts, namely: (1) Availability of written, complete and clear legal instruments that are carried out consistently in accordance with the spirit and provisions, and (2) Implementation of land registration that allows land rights holders to easily prove the rights to the land they control and for interested parties such as prospective buyers and potential creditors, to obtain the necessary information regarding the land which is the object of legal actions carried out and for the government to implement land policies.

Agrarian Law does not only regulate one area of law but also is a group of legal fields that are interrelated with the control of natural resources, including land, forestry, plantations, water, and natural resources, including their control. The regulation regarding the resolution of this agrarian conflict began with the presence of the People's Consultative Assembly Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management, which marked a new chapter in the resolution of agrarian conflicts. Agrarian Conflict Resolution is one of the directions of Agrarian policy (Article 5 letter f). Agrarian reform in the management of natural resources is carried out with the principle of "realizing justice in the control, ownership, use, utilization, and maintenance of agrarian resources and natural resources".

Based on the TAP MPR, a coalition of civil society together with Komnas HAM initiated the National Committee for the Settlement of Agrarian Conflicts (KNUPKA), but unfortunately this proposal was only answered by President Megawati by issuing Presidential Decree (Keppres) Number 34 of 2003 concerning the National Policy for the Land Sector which gave the provincial government the authority to resolve arable land disputes. Regency/City. The KNUPKA was again proposed in the era of President Susilo Bambang Yudhoyono (SBY), but the SBY government did not want the establishment of a special institution for conflict resolution, but proposed a revision of the UUPA (UU Principal Agrarian Law) and the strengthening of the UUPA. National Land Agency. Through Presidential Regulation Number 10 of 2006 concerning the National Land Agency, a special decree was formed to handle Agrarian Disputes and Conflicts with operationalization through the Regulation of the Head of the BPN-RI Number 3 of 2011 concerning

Procedures for the Assessment and Handling of Land Cases. So far, there are several institutions that handle Agrarian Conflict separately and can also be said to be uncoordinated.

It should be noted that the House of Representatives of the Republic of Indonesia (DPR-RI) has formed a Land Working Team (timja) which is tasked with receiving case complaints and providing recommendations for resolution to the relevant agencies. Meanwhile, at the Ministry of Environment and Forestry, there is a Team for Handling Environmental and Forestry Case Complaints and a special directorate regarding tenure conflicts. Komnas HAM receives case complaints and provides recommendations for resolution. The Ministry of Agrarian Affairs and Spatial Planning establishes a directorate that handles Agrarian issues. However, all conflict handling processes in each of these institutions have limitations and have not been able to resolve Agrarian Conflicts fairly (Priyono, 2019). Finally, in 2020 the DPR and the Government passed a law which in the process of drafting caused a contradiction, namely the Employment Creation Law (Omnibus Law) which was made by the Central Government and poured into the Prolegnas, which on October 5, 2020, was ratified by the DPR. Republic of Indonesia and has been promulgated as "Law Number 11 of 2020 concerning Job Creation" or often referred to as "Law on Job Creation" on 2 November 2020. Judging from the law, one of the legal arrangements regulated is the existence of a Land Bank (Failasufa & Lukman, 2022).

In Sumardjono, (2008) it is mentioned that the idea of establishing a land bank had already emerged in the 80s. In Indonesia, activities that can be called embryonic land banks include JIEP (Jakarta Industrial Estate Pulo Gadung) in Jakarta and SIER (Surabaya Industrial Estate Rungkut) in Surabaya. The purpose of establishing a Land Bank is "to ensure the realization of the provisions formulated in Article 33 paragraph (3) of the 1945 Constitution and its amendments, to support sustainable, just and equitable national development for the benefit of the people." also expected to be able to control regional development efficiently and effectively, as well as to control the control and use of land in a fair and reasonable manner in carrying out development. According to Professor Maria SW "Land Bank is every government activity to provide land that will be allocated for future use" (Sumardjono, 2008). Simply put, the Land Bank is "a bank that was built to address the phenomenon of the problem of abandoned vacant properties and accelerate environmental redevelopment, and strive to provide affordable housing for the community." The definition of Land Bank which is used as a solution to Agrarian problems has indeed been widely discussed in several studies and has even been applied in several countries. According to Suyudi & Suhattanto, (2018), explained that the importance of the existence of a Land Bank in the State of Indonesia and its relation to land acquisition, land management and land development, it is necessary to study more deeply the need to immediately establish a Land Bank. Institutions, available land resources, required regulations and potential land banks must be in accordance with the social conditions of the community, the needs of the government in carrying out development and the rules of land law that apply in the State of Indonesia.

If viewed based on Law Number 11 of 2020 concerning Job Creation, "The Land Bank functions to carry out planning, procurement, procurement, management, utilization, and distribution of land." In the provisions of Article 127 of the Job Creation Law it is stated that "the Land Bank in carrying out its duties and authorities is transparent, accountable, and not looking for profit", meaning that the government in this case does not give authority to the Land Bank to seek

profit, while in the process of land acquisition the development and other land disputes require large funds, and these are transferred to the private sector, of course, can provide benefits for the private sector. One year after the ratification of Law Number 11 of 2020, The government has officially issued Government Regulation (PP) Number 64 of 2021 concerning Land Bank Institutions. This regulation provides great authority and functions related to land in the Land Bank, from planning to land distribution in the agrarian reform program. Gunawan, an agrarian observer who is also a Senior Advisor to the Indonesian Human Rights Committee for Social Justice (IHCS) criticized the regulation. (Law, 2021). According to Gunawan, "The Land Bank Agency's Master Plan must not conflict with spatial planning and regional development plans." In addition, the Land Bank Agency may not take the authority of the Ministry of ATR/BPN in providing land objects for agrarian reform and land acquisition for the public interest and control of abandoned land. Then in carrying out its duties and functions, the land use plan of the Land Bank Agency must be in accordance with the regional spatial plan, this is to prevent environmental damage and reduce overlapping rules for establishing a land bank, as stated in Article 2 paragraph (2) of Law Number 11 of 2020 concerning Job Creation that "The Land Bank is given special authority to guarantee the availability of land in the context of economic equity for the public interest, social interest, national development interest, economic equity, land consolidation, and agrarian reform." Furthermore, Law Number 11 of 2020 and Government Regulation Number 64 of 2021 also received sharp criticism from the Agrarian Reform Consortium (KPA), including "The Land Bank is considered impartial in fulfilling the rights of small communities to land but investment as regulated in Article 19 of the Land Bank Regulation, namely "The Land Bank guarantees and supports the availability of land for central and regional development in order to support economic improvement and investment". Unfortunately, the source of land controlled by the Land Bank is the government's determination through state land claims. This state land is regulated in another PP, namely Government Regulation No. 18 of 2021 concerning Management Rights, where one of the state lands is the land of farmers, fishermen, customary law communities that have not been certified, whose ownership cannot be proven. Obviously, the social function of land and the prohibition of monopoly on land by the private sector as mandated by the 1960 LoGA has been labeled pp land bank. namely "The Land Bank guarantees and supports the availability of land for central and regional development in order to support economic improvement and investment". Unfortunately, the source of land controlled by the Land Bank is the government's determination through state land claims. This state land is regulated in another PP, namely Government Regulation Number 18 of 2021 concerning Management Rights, where one of the state lands is the land of farmers, fishermen, customary law communities that have not been certified, whose ownership cannot be proven. Obviously, the social function of land and the

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The market logic of the Land Bank is more clearly demonstrated in the use of the word 'competitive' as stated in Article 40 paragraph (8) of PP Land Bank. The role of the state which should guarantee land rights for the poor and prevent private monopolies in accordance with the mandate of the Constitution and the LoGA has been distorted by the Omnibus Law and its supporting regulations. The Land Bank will exacerbate the practice of land liberalization, speculators, and land monopolies by a handful of groups, including the self-governing elite. The workings of this institution have great potential to legalize land grabbing and eviction of people's residences, exacerbate structural poverty in rural and urban areas, criminalize farmers, cultivators, indigenous peoples, and or the poor in the name of investment and development, whereas the social function principles and the people's constitutional agrarian rights to land are becoming increasingly relevant and urgent in the midst of unequal land tenure and chronic structural agrarian conflicts. The enforcement of the social function of land is supposed to be the basis of land policy in Indonesia, not just an economic function, let alone a liberal economy, which is then considered the Land Bank to have not resolved the problem of Agrarian Conflicts that have not been resolved so far. resolved. which is then deemed the Land Bank has not resolved the issue of the Agrarian Conflict which has not been resolved so far. resolved. which is then deemed the Land Bank has not resolved the issue of the Agrarian Conflict which has not been resolved so far. resolved.

Based on the description of the background, researchers are interested in find legal facts related to the object of this research then the researcher will discuss in depth about the establishment of a land bank through the juridical level.

METHOD

This type of research is normative research, which is carried out by examining various formal regulations such as laws and literature which are theoretical concepts which are then linked to the problems that are the subject of discussion. The nature and source of the data used are primary legal materials, namely all legal rules whose enforcement or coercion is carried out by the state. Primary legal materials consist of statutory regulations, official records or minutes in making laws and judge decisions, and Secondary Legal Materials are legal sources obtained from official documents, legal publications or which include: law books, legal magazines, journals law, or court decisions. The technique of collecting legal materials is done by means of a literature study

(Marzuki, 2014).³ In analyzing the data that has been collected, qualitative analysis techniques will be used on the data obtained both from primary and secondary materials that are naturalistic and consist of words that are not processed into numbers. After all the data obtained are put together, then the data is processed and analyzed so that the data is arranged systematically and included in the appropriate group. After all the data is processed and compiled systematically, then based on qualitative research conclusions will be drawn to answer the existing problems.

Analysis with this qualitative approach is carried out on data that cannot be counted in monographic or real cases that cannot be compiled into a classification structure. namely by collecting material, qualifying then linking theories related to the problem, and drawing conclusions to determine results. In order for this analysis to be carried out for a small number of documents, the qualitative analysis does not use statistical tools.

RESULTS AND DISCUSSION

Land problems in Indonesia have been accommodated using Law No. 5 of 1960 concerning the Basic Agrarian Regulations, in this law the problem of land has been accommodated, and is actually an implementation of Article 33 of the Constitution of the Republic of Indonesia. The nature of the Basic Agrarian Law can be seen based on its preamble which explains the ugliness and ugliness of the previously applicable agrarian law. The shortcomings contained in the previous law caused Indonesia to have a double view of the enactment of agrarian law, this could lead to legal uncertainty that occurred in the community, so it was necessary to reform the law dealing with problems related to land, considering that land issues are a crucial problem (Urip, 2015).

The need for development which is increasing every time while the required land is getting narrower has resulted in smaller efforts to optimize the utilization of land use, especially in development for the benefit of each party on a piece of land. It is undeniable that land or land is a medium that is important for a development process for the public interest, especially that requires a very large amount of land. The problem that most often occurs is when the government wants to start a development, the desired land is not available or not yet available. The practical consequence is that the government has difficulty in carrying out the land acquisition process, especially related to the execution of land acquisition and its financing which is very expensive (Raffli, 2014).

On Monday, October 5, 2020, the House of Representatives of the Republic of Indonesia (DPR-RI) passed the Employment Creation Law (UU) in a Plenary Meeting. The Job Creation Law is one of four bills that are a priority for the government in the 2020-2024 National Legislation Program which will be passed, with the hope of spurring economic growth and investment in Indonesia. 27 paragraph (2) of the 1945 Constitution (UUD 1945) as the only article in the 1945 Constitution as its philosophical foundation. This has the potential to cause incomplete meaning of the 1945 Constitution. The role and obligations of the state, when referring to the entire contents of the 1945 Constitution, do not only regulate the 'right to work and a decent living for humanity':

1. Definition and Authority of land bank

Land Bank is one of the important tools in resource management to increase land use productivity. The methods promoted in the Land Bank are market control and local market land stabilization. Land Bank guarantees the availability of land for various development needs in the future, efficiency in APBN/APBD, reduces conflicts in the land acquisition process and reduces the negative impact of land liberalization. Land Bank management is related to how to plan, organize, carry out activities and supervise Land Bank activities in realizing the objectives of the Land Bank. Supported by adequate regulations and strong institutions, the management of the Land Bank can finally realize the six functions of the Land Bank, namely land collectors (land guards); land guarantee (guarantee land); land acquisition supervisor (land purchase); as land management (land management); as land appraisal; and as a land distributor. Conceptually, Land Bank activities must contain policies and strategies for optimizing land use and utilization (Bernhard, 2013).

The general purpose of establishing a Land Bank is to provide land for the development of public interests so that development plans by the government and the private sector are not hampered. In addition, the objectives of the Land Bank in terms of governance are to (i) shape the growth of community areas; (ii) regulate urban development; (iii) Reducing land speculation; (iv) Lowering community repair costs; and (v) Lowering the cost of public services due to the pattern of development (Miya, 2015).

In Government Regulation Number 19 of 2021 concerning Implementation of Procurement of Development for the Public Interest, it is stated that the Land Banking Agency, hereinafter referred to as the Land Bank, is a special agency (*sui genesis*) incorporated as an Indonesian legal entity. formed by the Central Government which is given special authority to manage land. The regulation regarding the Land Bank is regulated in the provisions of Chapter VIII Article 125 which states that the Land Bank Agency is a special agency that manages land. Furthermore, Article 137 states that one of the authorities of the Land Bank is the right to control from the state in the form of land which can be given management rights.

Management rights are equated with rights owned by State-Owned Enterprises/Regional-Owned Enterprises/State-Owned Legal Entities, or legal entities appointed by the Central Government. Article 138 then states that on land with management rights, the use of which is handed over to a third party, either partially or wholly, a right to cultivate, right to build, and/or right to use is granted in accordance with the provisions of the legislation. Article 180 of the Job Creation Law stipulates that another authority possessed by the Land Bank is to own land assets and or areas that are intentionally not cultivated or abandoned within a period of no later than 2 (two) years from the date of granting them to be revoked and returned to the state. In the implementation of the return to the country as referred to in paragraph (1),

2. Legal Arrangements and Potential Land Bank Problems

The establishment of the Land Bank is one of the indicators of liberalization in the agrarian sector. The Land Bank is conceptually the main instrument to accelerate the formation of the land market and make land solely as a commodity. The meaning of land is contrary to the mandate of the 1960 BAL which views land as having a social function and not

only an economic function. The 1960 Constitution also stipulates that state instruments in regulating land issues must focus on the acquisition and reserve of land for the livelihood of the people. In the Job Creation Law, the establishment of a Land Bank is explained in several articles, namely:

- i Article 125 of the Job Creation Law states that the Land Bank is a special agency that manages land and functions to carry out planning, procurement, procurement, management, utilization, and distribution of land;
- ii Article 126 paragraph (2) of the Job Creation Law states provisions regarding land reserves that allocate land availability for agrarian reform at least 30 (thirty) percent of state land designated for land banks;
- iii Article 129 of the Job Creation Law states that the Land Bank has a central role, because it has the authority over management rights in the article 'Strengthening Management Rights' article 136-142) which has the potential to be misused and only accommodates corporate and investment interests.
- iv Article 180 (1) Rights, permits, or concessions on land and areas which are intentionally not cultivated or abandoned within a maximum period of 2 (two) years after being granted are revoked and returned to the state. (2) In the implementation of returns to the state as referred to in paragraph (1), the Central Government may determine the rights, permits, or concessions as assets of the Land Bank. (3) Further provisions regarding the revocation of rights, permits, or concessions as well as their designation as assets of the Land Bank shall be regulated in a Government Regulation.

Potential problems that can arise as a result of the existence of this Land Bank include the lack of legal certainty in the administration and authority of the Land Bank because until now the Government Regulation concerning the existence of the Land Bank is still in the form of a draft and has not been ratified. The establishment of a Land Bank requires coordination between ministries such as the Ministry of Agrarian Affairs and Spatial Planning and the Ministry of Public Works and Public Housing, this agency will purchase land before the infrastructure development project begins. So that it can reduce land selling agents who buy land and then it will only be sold if there is a development project with a high and profitable land price. In addition to,

3. Ineffective Land Bank Establishment as an Effort to Settle Agrarian Conflicts

a. Benefits for the Private Sector

The private sector gains from the existence of the Land Bank is for the management of abandoned state land, at least 30% of the land managed by the Land Bank must be used for agrarian reform. This land is used for the benefit of agricultural land, public housing, gardening, and other public interests. This means that the use rights can be given to private parties without any element of seeking profit or seeking profit. Article 124 of the Job Creation Law states that the Land Bank institution guarantees the availability of land in the context of economic equity, one of which is for the benefit of agrarian reform. It is feared that the existence of the Land Bank institution is not in accordance with the objectives of agrarian reform, which include reducing inequality in

land ownership to realize social justice, reducing conflicts, disputes, and agrarian cases. and realizing weak economic access. community to maximize economic resources so that prosperity and welfare can be achieved. The HPL which is regulated by the Land Bank institution, if implemented, is unlikely to differ much from the land principle which contains land rights that were enforced during the Dutch colonial period. This soil particle itself has been removed, regulated in Law Number 1 of 1958 concerning the Elimination of Soil Particles. It is feared that the principle of land reform which is substantially contained in the LoGA will be erased if the Land Bank is still implemented. It needs maximum readiness if the state is going to establish a Land Bank institution or the like, namely by strengthening its philosophy, and it must be clear that the most important goal of establishing a Land Bank, and there must be a balance of land. Procurement for the national interest through investment, and land acquisition in the context of agrarian reform, namely providing direct access to the people/farmers of state land to make the best use of their land, so that the land reform principle in the UUPA is not violated. This shows that the duty of the state to provide general welfare for its citizens includes protecting the rights of citizens to land. This is the Government, then strengthened and legitimized by MPR Decree Number IX of 2001 which mandates the government to do various good things regarding efforts to organize, control, possess, use, designate, and provide land, all of which are placed in the context of developing people's welfare in a sustainable manner. Procurement for the national interest through investment, and land acquisition in the context of agrarian reform, namely providing direct access to the people/farmers of state land to make the best use of their land, so that the land reform principle in the UUPA is not violated. This shows that the duty of the state to provide general welfare for its citizens includes protecting the rights of citizens to land. This is the Government, then strengthened and legitimized by MPR Decree Number IX of 2001 which mandates the government to do various good things regarding efforts to organize, control, possess, use, designate, and provide land, all of which are placed in the context of developing people's welfare in a sustainable manner. Procurement for the national interest through investment, and land acquisition in the context of agrarian reform, namely providing direct access to the people/farmers of state land to make the best use of their land, so that the land reform principle in the UUPA is not violated. This shows that the duty of the state to provide general welfare for its citizens includes protecting the rights of citizens to land. This is the Government, then strengthened and legitimized by MPR Decree Number IX of 2001 which mandates the government to do various good things regarding efforts to

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b. Similarity of Duties with other State Institutions

Whereas Article 180 of the Job Creation Law states that (1) Rights, permits, or concessions on land and areas that are intentionally not cultivated or abandoned within a period of no later than 2 (two) years from the date of issuance are revoked. and returned to the country. (2) In the implementation of returns to the state as referred to in paragraph (1), the Central Government may determine the rights, permits, or concessions as assets of the Land Bank. (3) Further provisions regarding the revocation of rights, permits, or concessions as well as their designation as assets of the Land Bank shall be regulated by a Government Regulation.

From the provisions of the article, it can be understood that the permit rights to the abandoned area for a maximum of 2 years are revoked and returned to the State and designated as assets of the Land Bank. This means that ownership and management are in the Land Bank, while Government Regulation (PP) Number 6 of 2006 concerning Management of State/Regional Property regulates that the management of state assets is under the control of the Minister of Finance as the general treasurer. state, while the head of the state ministry/institution is the user of state property, and the official of the work unit is the proxy for the user of state property.

Land is part of the wealth controlled by the state based on Article 33 paragraph (3) of the 1945 Constitution which stipulates, "Earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the

people. "Thus, the highest authority holder is the Indonesian nation in an organization called the state. As a form of state policy in terms of land management as mandated by Article 33 of the 1945 Constitution, the state issues the UUPA to become the legal basis for the implementation of land management policies, where the right to control the state give birth to the authority as referred to in Article 2 paragraph (2) of Law Number 5 of 1960, namely: a) to regulate and administer the allocation, use, and maintenance of earth, water, and space;

- c. Determine and regulate legal relations between people and legal actions regarding earth, water, and space.

Whereas to implement these provisions, the state has issued regulations for institutions in charge of regulating and managing state assets in the form of land for the survival of the nation and state, namely Presidential Regulation Number 10 of 2006 concerning 20 National Land Agency. The three main functions mentioned above that must be carried out by the state are given to BPN as a government agency authorized to handle land. However, in reality until now the land institution has not been optimal, as can be seen from the land management which is handled by more than one institution, but has not been well coordinated. Land administration management has been handled by the Ministry of Forestry for forest areas and BPN for non-forest land.¹⁶ In addition, in terms of land management, Article 1 of Presidential Regulation Number 10 of 2006 states that BPN is a Non-Departmental Government Institution which is under and responsible to the President, and is led by a Head. In carrying out its main duties and functions, the Head of BPN is assisted by the Main Secretary and 5 (five) Deputy and Chief Inspector. The five deputies are (Article 4) their respective deputies.

Deputy for Surveying, Measurement and Mapping, Deputy for Land Rights and Land Registration, Deputy for Land Regulation and Management, Deputy for Land Control and Community Empowerment, Deputy for Assessment and Handling of Land Disputes and Conflicts. Furthermore, according to Article 2, the National Land Agency is tasked with carrying out government duties in the land sector nationally, regionally, and sectorally, thus the National Land Agency institution is the Ministry of Finance, while the Ministry of Finance is in charge of financial affairs led by a Minister. The existence of the Ministry of Finance in land management is based on several regulations including Law Number 17 of 2003, Law Number 1 of 2004, and Government Regulation Number 6 of 2006. The general explanation of PP No. 6 of 2006 states, "The Minister of Finance as the general treasurer of the state is the manager of state property". The definition of goods manager according to Article 3 of PP Number 6 of 2006 is "An official who is authorized and responsible for setting policies and guidelines and managing state/regional property". Thus, the management is very closely related to the person/official as referred to in Article 4 paragraph (1) of PP Number 6 of 2006. From this explanation, it can be understood that the ownership of state land that is not used is used as an asset of the Land Bank where the management of the land bank's assets is not determined. how it is managed and what kind of system is implemented. in the use of these assets. On the other hand, A number of regulations were found regarding the authority of BPHN and the Ministry of Finance in

managing state assets including land, this raises the question of how state assets under the control of the Land Bank can be enforced and used. for benefits according to the actual procedure

d. There is no Time Term of Land Management Rights in the Employment Creation Law

Legal protection and legal certainty in the use and utilization of land are contained in various laws and regulations. The regulation of land use and utilization of government agency assets has been regulated in Law Number 1 of 2004 concerning State Treasury and Government Regulation Number 6 of 2006 concerning Management of State/Regional Property. In order to provide legal protection for land assets, government agencies and legal certainty in "ownership" need to be based on the basics of having legal rights so that they can easily prove themselves as holders of rights to the land in question. Legal protection and certainty to land rights holders can be provided through land registration. Hereby the holder of land rights is given a certificate as proof of his rights.

The provisions of Article 28H Paragraph (4) of the 1945 Constitution are the state's commitment to recognize and respect individual property rights, including the rights of citizens to land. However, land rights in force in Indonesia are not absolute, meaning they cannot be fully defended against anyone by the right holder. In certain circumstances where the interests of the state require, the holder of land rights must be willing to give up their rights for the greater interest. If you look at the constitution, the 1945 Constitution has explained that the earth's water and the natural resources contained therein are used for the greatest prosperity of the people. UUPA, as a basic regulation that becomes a reference for the existence of various laws and regulations in the land sector,

With the status of ownership by the State, the state can also give rights to other parties who want to use the land with their own Management Rights according to Article 1 point 3 of the Regulation of the State Minister of Agrarian Affairs/Head of Land Agency Regulation Number 9 of 1999 concerning Procedures for Granting and Cancellation State Land Rights and Management Rights ("Permen Argaria 9 of 1999") are state control rights whose implementation authority is partially delegated to the holder. In the provisions of Article 137 it is stated that the Land Bank has the authority to manage rights and can release it to other parties, but regarding its implementation,

e. Disagree With Claims That Land Banks Are Solutions To Problems For Society

The constitution has provided clear regulations regarding land in Indonesia. It is affirmed in the 1945 Constitution Article 33 paragraph (3) of the 1945 Constitution that the power given to the earth, water and natural resources contained therein lies with the State, and for that the State is obliged to regulate their ownership and lead them. its use. The goal is that all land in the entire territory of the Indonesian nation's sovereignty is used for the greatest prosperity of the people. In the regulation of the land sector, the right to control the state is also further regulated and reaffirmed in Article 2 paragraph (1) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles. Land has a very strategic function, both as a natural resource and as a space for development. However, in

this vast country of Indonesia, there is still a lot of abandoned land whose use is not clear. These abandoned lands tend to only be used as objects of speculation.

The existence of the Land Bank is intended to improve the welfare of the community at every level through the use of abandoned state land so that it can be managed properly and generate money without any element of profit being taken by the Land Bank. Article 126 of the Employment Creation Law states that the Land Bank Agency guarantees the availability of land in the context of economic equity for: a. public interest; b. social interests c. national development interests; d. economic equity; e. land consolidation; and f. agrarian reform by drinking 30% of the land was earmarked for the Land Bank.

Regarding the settlement of agrarian conflicts through the Land Bank, it is considered unable to work because the Land Bank does not have the authority and competence in resolving land rights that are in dispute between the government and the community or legal entities. more clearly the existence of a Land Bank that does not confuse the public, which does not mean a bank in the financial sector that has been known to the public for its prudential principles, the principle of respect for people's rights, and the principle of justice. The Land Bank will actually exacerbate the situation of inequality, agrarian conflicts, and facilitate the process of land grabbing in the name of land acquisition for infrastructure development. as well as fostering the practice of land mafias and land speculators and tend to be impartial to the interests of small people, especially farmers. If the rapid rate of land conversion of agricultural land does not stop, it is even facilitated by the existence of a land bank, the community's agricultural land will shrink, and the number of landowners and cultivators will decrease. reduced in number due to the loss of the main means of production, i e. soil. Farmers' livelihoods will be eroded. especially farmers. If the rapid rate of conversion of agricultural land is not stopped, even facilitated by the existence of a land bank, the community's agricultural land will shrink, and the number of farmers who own land and cultivators will decrease due to the loss of their main means of production, namely land. Farmers' livelihoods will be eroded. especially farmers. If the rapid rate of conversion of agricultural land is not stopped, even facilitated by the existence of a land bank, the community's agricultural land will shrink, and the number of farmers who own land and cultivators will decrease due to the loss of their main means of production, namely land. Farmers' livelihoods will be eroded.

f. The Urgency of Establishing Land Bank Institutions

The government has a national long-term development target every 25 years, one of the things it wants to achieve is infrastructure issues to optimize state services to the community. Currently, infrastructure development is still being carried out in order to optimize services to the community. The increasing intensity of development needs and the increasingly limited availability of land simultaneously result in the increasing difficulty of optimizing the use of land use, especially for the implementation of development for the public interest, so that what follows is a conflict of interest between parties over the same piece of land. The problem that occurs is the limited availability of land. In addition, the presence of land speculators also hampers the provision of land because land prices

soar. Therefore, a management of the availability of land is needed through a land provider institution, namely the land bank. ⁴ Land bank refers to the process of acquiring undeveloped or unproductive community land for the purpose of future development.

The existence of the Land Bank can carry out what has been mandated by the 1945 Constitution of the Republic of Indonesia and the 1960 BAL. Land banks can be used as instruments to support the implementation of various land policies and support the achievement of development through regional development, land acquisition in a fair manner.

At the empirical level, the Land Bank can answer various pressing issues that have often overshadowed infrastructure development such as the limited land stock that can be used for development, saving on APBN and APBD funds, reducing conflicts that often occur in land acquisition and reducing the bad impact of the practice of land acquisition. land price speculation that is often carried out by the land mafia. At the implementation level, the institutional concept of a Land Bank must be based on the 1945 Constitution of the Republic of Indonesia and the 1960 BAL. Land banks must be managed by institutions that are public legal entities, both as units and departments or in the form of BUMN. As stated earlier, land plays a very central role, therefore the government must take part in all its implementation activities.

CONCLUSION

Based on the discussion that has been described, the conclusion that can be formulated is that the existence of the Land Bank as regulated in the Job Creation Law is based on the non-profit principle, meaning that in its implementation the Land Bank does not take any profit at all. This tends to benefit entrepreneurs as private parties in clearing land used on state land. Regarding the flow, the main tasks and functions of the Land Bank itself have not been regulated in a government regulation, only in the form of a draft government regulation that has not been formalized, therefore the Land Bank does not have official legal guidelines in carrying out its duties. Then the status of land rights management granted to the Land Bank was previously the authority of other state institutions so that it was considered ineffective. The ease of land control by the state also limits the use of agricultural land which has been used by farmers to drive the wheels of the economy. Regarding the settlement of agrarian conflicts through the Land Bank, it is considered impossible because the Land Bank does not have the authority and competence in resolving land rights which are disputes between the government and the community or legal entities. The existence of the Land Bank needs to be strictly controlled which is regulated in government regulations as its implementation so that the existence of the Land Bank is clearer, so as not to confuse the public. Regarding the settlement of agrarian conflicts through the Land Bank, it is considered impossible because the Land Bank does not have the authority and competence in resolving land rights which are disputes between the government and the community or legal entities. The existence of the Land Bank needs to be strictly controlled which is regulated in government regulations as its implementation so that the existence of the Land Bank is clearer, so as not to confuse the public. Regarding the settlement of agrarian

conflicts through the Land Bank, it is considered impossible because the Land Bank does not have the authority and competence in resolving land rights which are disputes between the government and the community or legal entities.

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