

BPN'S ROLE IN SETTLEMENT OF COMPENSATION AT RAIL BORDERING IN THE JOGLO AREATony Rizky Herlambang¹, Marisa Kurnianingsih²¹ Universitas Muhammadiyah Surakarta (C100190226@student.ums.ac.id)² Universitas Muhammadiyah Surakarta (mk122@ums.ac.id)**ABSTRACT**

This research aims to find out the role of BPN and the internal and external obstacles encountered in the process of providing compensation. Compensation or compensation is a principle where the sale and purchase of land will be fair if the compensation is the same as what would have been incurred without buying government land. This research uses an empirical juridical method, namely researching real events in society. It can be seen that the role of BPN is as an implementer in the process of providing compensation. The internal obstacles encountered were inherited land for which there was no inheritance certificate and collecting the identities of the heirs. External obstacles are about people who object to the amount of compensation which is considered not in accordance with the wishes of the community.

Keywords: Role, Settlement, Compensation, Bantaran.

INTRODUCTION

Land is a natural resource with an important function in the development of a country.¹The basic rights of the people are related to land issues. On the other hand, land has economic value and a socialist function, so community interests are sacrificed in the right to release land by obtaining compensation for evicted land for regional expansion and general development.²

In terms of land acquisition, it is very vulnerable to carry out, because it affects the needs of many people. If seen from the perspective of the government aspect for progress, it is understandable that the available government land is very limited so the only way is to acquire land for development purposes to facilitate progress.³

In reducing conflict and in the process of shared prosperity, the results of developing the common interests of Law No. 2 of 2012 are:⁴

- a. Principle of justice, guarantee of appropriate compensation to the recipient.
- b. The principle of certainty, legal certainty regarding land availability.
- c. The principle of welfare, providing added value to the wider community.

The forms of compensation according to Law Number 2 of 2012 that can be given are: Money, Replacement Land, Replacement Settlement, Share Ownership, other forms agreed to by the parties concerned.

Compensation is the right to obtain fulfillment of one's demands, which can be in the form of a sum

¹ Arief Budiono, *Teori Utilitarianisme dan Perlindungan Hukum Lahan Pertanian dari Alih Fungsi*, Jurnal Jurisprudence, Vol.9, No. 1, (2019), hlm 107.

² Aldi Subhan Lubis, *Pelaksanaan Pembayaran Ganti Rugi dalam Kegiatan Pengadaan Tanah Pembangunan Jalur Kereta Api Bandara Soekarno-Hatta Terhadap Bidang Tanah yang tidak Memiliki Alas Hak*, Journal of Law, Vol 2, No.1, (April 2019), hlm 1.

³ Hapsari, Nila Dwi and Darsono, (2017) *Ganti Rugi Tanah Yang Tidak Tercapai Kesepakatan Antara Pemilik Dan Panitia Pelaksana*. Universitas Muhammadiyah Surakarta.

⁴ Amelia Rachman, Mieke Aprilia Utami, Apelin, (2019), *Implementasi Asas Keselarasan Dalam Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum*, Sagacious Jurnal Ilmiah Pendidikan dan Sosial Vol. 6 No. 1 Juli-Desember 2019, hlm. 50.

of money for reasons that cause legal harm to oneself or even to a person or legal entity in accordance with applicable laws.

Land acquisition will not be free from the problem of compensation, so it requires collecting data regarding several buildings which may not have a certificate there. The compensation referred to if the land is found not to have a certificate or has the status of government-owned land is in the form of replacement for building materials that have been used. in the process of constructing the building.

Based on the description of the research problems above, the author formulates the problems in the writing research on Compensation Settlement at the Joglo Area Railway, namely first, what is the role of BPN Surakarta in the process of providing compensation to the community in the Joglo railway area, second, what obstacles are encountered by the City Government? local people in the process of providing compensation to the people of the Joglo railway area.

In research, researchers must have clear and precise goals, because goals become the direction and guidance in conducting research. The aim of the research is primarily to show what the researcher wants to achieve both in terms of problem solving and meeting individual needs.

Based on the Problem Formulation, the aim of the researchers regarding Settlement of Compensation Along the Joglo Railway is firstly to find out the role of BPN in the process of providing compensation to the community in the Joglo railway area, and secondly to find out how to resolve the obstacles encountered by The local city government is in the process of providing compensation to the people of the Joglo railway area.

Summary and theoretical study

Definition of Compensation

Compensation is a process that focuses on justice which refers to the system of buying and selling land or buildings, where there are people who have the right to receive compensation in the form of money or goods as a way of resolving the problems being faced.

Article 1365 Civil Code

Compensation explains that an act is intentional or careless and has legal consequences, namely compensating for losses caused by the unlawful act.

The Islamic law perspective on compensation in relation to civil compensation focuses on the obligations of the parties in presenting the engagement contract. Of course, if one party does not fulfill its obligations as decided by both parties, it will cause losses to the other party.

In Islamic law, the responsibility that must be fulfilled is called *Dhaman al-'aqdi*. *Dhaman al-'qdi* is part of civil responsibility. Civil compensation in Islamic law means civil responsibility in paying compensation for breach of contract.

RESEARCH METHODS

Research methods are scientific activities based on certain methods, classifications and ideas, the aim of which is to study one or more legal phenomena through analysis.⁵In the process of selecting research methods, there are several important things in it, which means that methods have an important role in developing a framework of thought and support so that research can be carried out well.

The approach used in this research is empirical juridical, meaning studying events that occur in society with the aim of knowing and finding the facts and information needed, then continuing after collecting the necessary information, after the required data is collected then continuing to identify the problem which ultimately refers to on problem solving. The targets used as research locations were the Joglo Railway Banks, Nusukan Village and Joglo Village.

In this research, the data collection method used by the author is library research, namely a data collection method that examines books, journals, newspapers, articles, the internet, research and

⁵ Khudzaiyah Dimiyati, 2014, "*Metode Penelitian Hukum, Surakarta*": Universitas Muhammadiyah Surakarta, hlm. 3.

statutory regulations related to the problem being studied.

Then by conducting interviews with direct sources, namely people who live along the Joglo railway tracks and employees from BPN Surakarta to obtain factual data about this problem. To obtain secondary data or information, a literature study is carried out by examining primary legal materials and secondary legal materials.

The data analysis method used by the author in searching for information consists of applying a qualitative analysis method that uses deductive logic. Deductive logic consists of systematically searching for information from interviews and field notes and organizing it in such a way that it can be understood and communicated to the general public.

RESULTS AND DISCUSSION

A. The Role of BPN Surakarta in the Process of Providing Compensation to Communities in the Joglo Railway Area

Compensation or compensation, namely the principle of justice in cases of land buying and selling transactions, will be fair if the result is that the party is entitled to at least the same amount without buying government land.⁶ Compensation is carried out through several stages: planning, preparation, implementation and delivery of the results of the implementation.⁷

The right to development for the public interest cannot be separated from the provision that human dignity must be upheld in the framework of development, and the aim of development itself is to continue to advance the welfare of the people in a fair and comprehensive manner.⁸

When talking about compensation for buildings or land, it must be based on a regulation or order from a more authorized body, one of which is directly from the Governor as the person who played a role in the preparation.

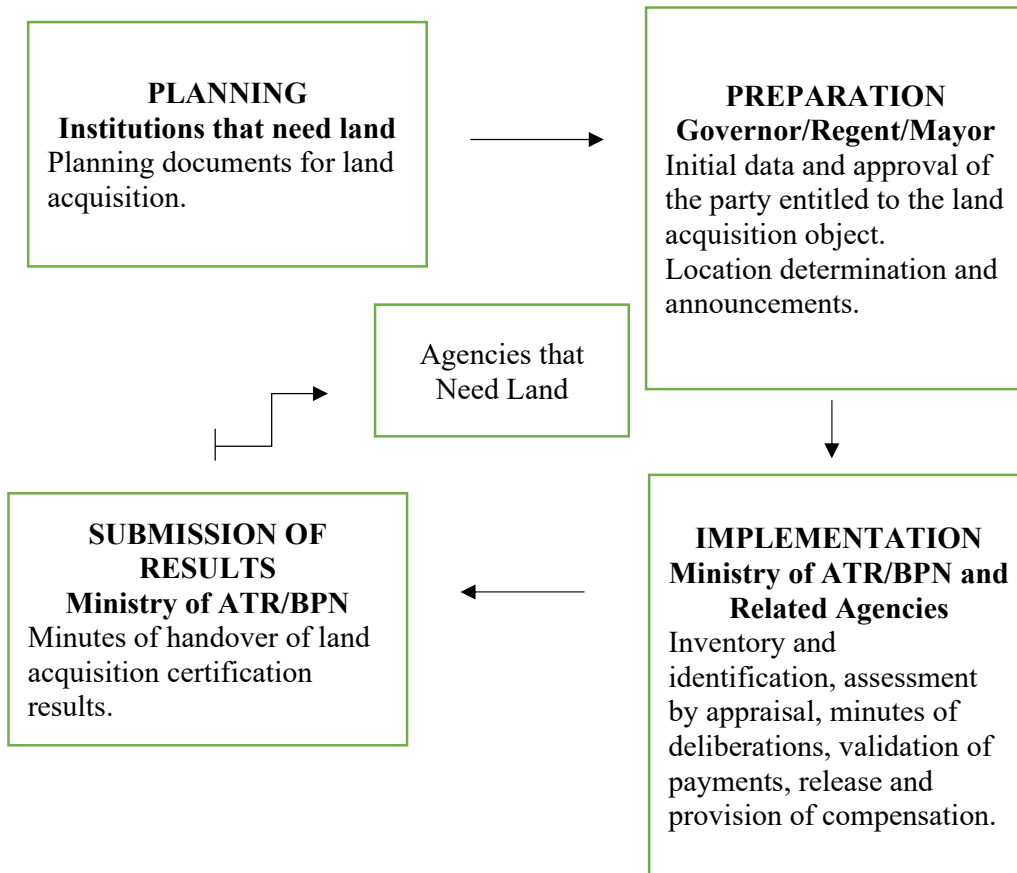
The preparations in question include: information initial and approval from the authorized party to determine the object of compensation, then location determination and notification sent to the land agency responsible for the implementation process, one of which is BPN. Because this progress occurred in the Surakarta area, its implementation was carried out by BPN Surakarta as the land agency which was given direct authority by the Governor of Central Java.

⁶ Aristya Windiana Pamuncak, "Perbandingan Ganti Rugi Dan Mekanisme Peralihan Hak Menurut Peraturan Presiden Nomor 65 Tahun 2006 Dan Undang-Undang Nomor 2 Tahun 2012", *Jurnal Law and Justice* Vol. 1, No. 1 (Maret 2016), hlm 3.

⁷ Edi Rohaedi, Isep H. Insan dan Nadia Zumaro, "Mekanisme Pengadaan Tanah Untuk Kepentingan Umum", *Pakuan Law Review*, Vol 5, No 1, (2019), hlm 1.

⁸ Absori dan Nunik Nurhayati, "Kebijakan Perizinan, Sengketa Lingkungan Hidup Dan Kepentingan Investasi", *Jurnal Jurisprudence*, Vol. 7, No. 2, (Desember 2017), hlm 98.

Stages of Land Acquisition in BPN's Role as Executor and Compensator



BPN is a government body, having no relationship with the Ministry, which is obliged to carry out government duties in the land sector in accordance with applicable laws and regulations. From the data that the author obtained at the time of compensation in land acquisition near the Joglo railway area, BPN here has a role as implementer in land acquisition activities and the compensation process.

The implementation role includes inventory and identification, assessment by appraisal, minutes of deliberations, validation of payments, release and provision of compensation:⁹

1. Inventory and Identification

Inventory and identification activities are carried out with the aim and objective of obtaining clear and detailed information about ownership, land status and the contents of the land surveyed for further calculation and compensation. Apart from that, the results of the inventory and identification are the basis for determining who is entitled to compensation.

Announcement of the results of the inventory and identification as well as submission of objections from residents is carried out within fourteen working days.¹⁰The results of the inventory

⁹ Dekie GG Kasenda, "Ganti Rugi Dalam Pengadaan Tanah Untuk Kepentingan Umum", Jurnal Morality, Vol 2, No. 2 (2017), hlm 13.

¹⁰ Muhammad Nasiruddin Afif dan Iffah Nur Hayati, "Kinerja BPN DIY Dalam Pengadaan Tanah Untuk Pembangunan Bandara "YOGYAKARTA INTERNATIONAL AIRPORT", Jurnal Pendidikan Kewaraganeeraan dan Hukum Vol 9, No.1, (2020), hlm 81.

and identification are announced to the authorities at the local sub-district office within fourteen working days. Residents who have objections can directly submit objections regarding the results of the inventory and identification to the sub-district party regarding this matter.

2. Assessment by Appraisal

Assessment by appraisal carried out by a land appraiser or appraiser. In this case, the assessor carried out data collection and assessed compensation for residents affected by evictions along the railway tracks in the Joglo area.

An appraiser or appraiser is a party who provides value independently and professionally and has been given a permit to practice appraisal from the Minister of Finance and has a license from BPN to calculate the price of objects affected by land eviction and receive compensation.

3. Minutes of Deliberation

Deliberation in the form of compensation or minutes. At this stage, what is meant by deliberation is a meeting regarding the form of compensation, not haggling over prices. After the assessment results from the appraisal have been made and submitted to BPN as the implementer in the compensation process for land acquisition in the Joglo rail area, they will be taken into account for providing compensation which can be in the form of money or objects. This compensation deliberation activity was held in two sub-districts, namely Joglo and Nusukan.

4. Release and Compensation Process

The process of providing or compensating for compensation is the payment of compensation to people who are entitled to receive it. Form of compensation based on Article 36 of Law no. 2 of 2012 can be received in the form of money, replacement land, resettlement, share ownership, and other forms agreed by both parties. In providing compensation on the Joglo railroad tracks, it is replaced in the form of money.

The process of providing compensation is realized with the aim of implementing the principles of welfare for the entire community, because it is hoped that it can provide added value for the survival of the entitled parties and the community. In the process of providing compensation it can provide positive value for the survival of the community, especially in the economic sector and improving facilities and infrastructure between regions to reduce congestion in the Joglo area and its surroundings. Likewise, the environment remains a safe and comfortable place to live, so that long-term development can be realized and improve people's welfare.¹¹

B. Obstacles Encountered by the Local City Government in the Process of Providing Compensation to Communities in the Joglo Railway Area

The role of the Surakarta City Government and BPN Surakarta in dealing with obstacles and problems that arise due to the eviction of buildings along the Joglo railway track is regarding the amount of compensation which may not be in accordance with the requests of the affected communities. This reason arises because the community, in the process of determining the provision of compensation, has many parties who have rights. In the implementation of land acquisition which gives rise to compensation, it often causes various problems in its implementation.

Determining the form and amount of compensation often takes a long time because there is no agreement between those involved.¹²In this way, the Land Acquisition Agency is expected to be able to carry out compensation objectively and impartially between either party.

The obstacle that arises in the land acquisition program along the railway tracks in the Joglo area regarding compensation is that regarding inherited land, there must be a certificate of inheritance. There are two types of obstacles, namely internal obstacles and external obstacles.

¹¹ Jaka Susila, "Industrialisasi Dan Pembangunan Berkesinambungan", Jurnal Jurisprudence, Vol. 8, No. 2, (2018), hlm 46.

¹² Aji Bayu Prasetya dan Rahayu Subekti, "Aspek Hukum Pembayaran Ganti Rugi Dalam Pengadaan Tanah Untuk Jalan Tol", Jurnal Pendidikan Kewarganegaraan Undiksha, Vol. 10, No. 2, (Mei 2022), hlm 259.

Internal obstacles for example:

1. Certificate of inheritance

Transfer of rights based on a certificate of heirs is made as proof of heirship in inherited assets.¹³In accordance with Article 111 paragraph 1 of the Minister of Agrarian Affairs/BPN Regulation Number 3 of 1997 concerning provisions for implementing Government Regulation Number 24 of 1997 concerning land registration. As evidence, the requirements for submitting an application for land registration may include a will, permanent court records, population classification based on court decisions and inheritance certificates.

2. Collecting the Identities of Heirs

Collecting the identities of the heirs, the heir is the person who has the right to the inheritance bequeathed to him with a letter of inheritance transfer written directly by the owner of the inheritance with the aim of continuing his inheritance. Inherited assets can be in the form of goods, money, or land and buildings.

In terms of searching for the identity of the heirs, the aim is to make it easier for the City Government and the sub-districts, both Joglo sub-district and Nusukan sub-district, to determine the ownership status of the land and buildings they occupy along the Joglo railway, even if it is their original land according to the proof of certificate provided. If there is, compensation will be given in accordance with the calculation of the land area and capital used to construct the building.

External obstacles include:

1. The public objects to the amount of compensation

The community factor that arises from the provision of compensation is that the community hopes that the land and buildings they live in will be paid according to the promises given, this is what was expressed by the local sub-districts, namely Joglo and Nusukan sub-districts. It is known that in providing compensation there is a government regulation which states that if the land exceeds 100m² then a further review will be held regarding the nominal amount that will be given to support compensation.

If the land is known to have a valid certificate then compensation will be made according to the agreement and if it is known that the land belongs to the government then a calculation will be made regarding construction costs in providing compensation. The building compensation in question is building materials such as the amount of cement used, brick, etc.

2. Islamic Views Regarding Compensation

According to the view of Islamic law, compensation is considered as dhaman which means guaranteeing the payment of debts, and diyat is a guarantee for wealth.¹⁴In Islamic law itself, compensation is contained and regulated in a perfect way to make it easier for the public to calculate the basic value or scope in the concept of compensation or dhamam.

Islam is a religion of rahmatan lil'alamin that really pays attention to the welfare of every person, externally and internally. Morally and according to Islamic law, it is highly recommended to behave honestly, confidently and fairly in muamalah, especially in practice when Muamalah desires not to consume other people's property and provide fair compensation to other people.

¹³ Massora Monika Ardia Ningsi dan Victoria Pasari Putri, (Oktober 2019), "Kekuatan Hukum Surat Keterangan Ahli Waris bagi Golongan Bumiputera yang Dikuatkan oleh Camat", Artikel Notaire, Vol. 2, No. 3, hlm 390.

¹⁴ Hengki Firmanda, "Hakikat Ganti Rugi Dalam Perspektif Hukum Ekonomi Syariah dan Hukum Perdata Indonesia", Jurnal Hukum Respublica, Vol. 16, No. 2, (2017), hlm 237.

CONCLUSION AND SUGGESTION

Conclusion

Based on the author's research, it can be concluded that BPN's role in compensation has a very important position in the communities affected by evictions in the Joglo area, because from this the community can get their rights back even though some of them only occupy government-owned land, but Here the government and the Land Agency are fair in providing compensation by providing compensation based on how much costs were incurred in constructing the building. Calculated from the number of bricks, cement, etc.

The role of BPN as the implementing party in land acquisition activities and the compensation process. The implementation role in question includes inventory and identification, assessment by appraisal, minutes of deliberations, validation of payments, release and provision of compensation. Once it is felt that all data regarding the population has been fulfilled then in accordance with Article 36 of Law no. 2 of 2012 concerning compensation for losses that can be received in the form of money, replacement land, resettlement, share ownership, and other forms agreed to by both parties.

According to the City Government and BPN of the Surakarta region, the obstacles that arise regarding the land acquisition program on the Joglo area railroad tracks in providing compensation are regarding inheritance land which should have a certificate of inheritance and regarding the identity of the heirs registered in the Joglo and Nusukan sub-districts which are included Internal obstacles and people who object to the amount of compensation paid are included in external obstacles.

Regarding the view of Islamic law regarding compensation or dhamam, it is a responsibility, so fulfilling it is an obligation for everyone in the concept of providing compensation fairly.

Suggestions

In this case, the City Government and BPN, through the sub-districts of each region, such as Joglo Subdistrict and Nusukan Subdistrict, provide prior outreach or announcements to the community which aims to provide preparation and evaluation to the community regarding the process of providing compensation for both communities who have legal inheritance land and are registered in affected sub-district offices, so that the public does not misunderstand and avoid disputes regarding the amount of compensation that will be paid by the local government.

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