

Analysis of Legal Framework
Surrounding Absentee Land Ownership
Post-Inheritance (Case Study in
Indramayu Regency)
*Analisis Kerangka Hukum Seputar
Kepemilikan Tanah Absentee Pasca Warisan
(Studi Kasus di Kabupaten Indramayu)*

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Abstract

Indramayu Regency has become increasingly concerned about absentee land ownership, or the ownership of agricultural land by people who do not live nearby, especially after inheritance events. This approach is at odds with the regulations designed to guarantee that the outcomes of land management are accessible to the local community. This study seeks to identify and examine the factors contributing to absentee land ownership practices following inheritance in Indramayu Regency, as well as the legal ramifications associated with these practices in the same region. The study employs a qualitative methodology, drawing on a juridical-empirical approach. The results show that the social factors that lead to absentee land ownership after inheritance in Indramayu Regency are the community's lack of legal knowledge and cultural norms that protect and allow this practice without meaning to. From an economic standpoint, the heirs' consideration of absentee land as an investment and a security for their retirement plays a significant role. Given the rights and responsibilities of the heirs of absentee landowners, the legal



consequences of absentee land ownership practices following inheritance indicate that the heirs have a rightful claim to the inherited land. When land is designated as absentee land, the heirs must transfer it to another individual living in the district where the land is situated within one year following the testator's death. The heir's failure to adhere to the prohibition ultimately results in a legal conflict.

Keywords *Property Rights, Remote Ownership, Property Succession, Succession Legislation*

Kabupaten Indramayu semakin prihatin dengan kepemilikan tanah yang tidak ada, atau kepemilikan tanah pertanian oleh orang yang tidak tinggal di dekatnya, terutama setelah peristiwa pewarisan. Pendekatan ini bertentangan dengan peraturan yang dirancang untuk menjamin bahwa hasil pengelolaan lahan dapat diakses oleh masyarakat lokal. Penelitian ini berupaya untuk mengidentifikasi dan mengkaji faktor-faktor yang menyebabkan terjadinya praktik kepemilikan tanah secara absensi setelah pewarisan di Kabupaten Indramayu, serta dampak hukum yang terkait dengan praktik tersebut di wilayah yang sama. Penelitian ini menggunakan metodologi kualitatif dengan menggunakan pendekatan yuridis-empiris. Hasil penelitian menunjukkan bahwa faktor sosial yang menyebabkan terjadinya kepemilikan tanah mangkir setelah pewarisan di Kabupaten Indramayu adalah kurangnya pengetahuan hukum dan norma budaya masyarakat yang melindungi dan membiarkan praktek tersebut tanpa disengaja. Dari sudut pandang ekonomi, pertimbangan ahli waris atas tanah absensi sebagai investasi dan jaminan masa pensiun mempunyai peranan yang sangat penting. Mengingat adanya hak dan tanggung jawab ahli waris dari pemilik tanah yang tidak sah, maka akibat hukum dari praktek kepemilikan tanah yang tidak sah setelah pewarisan menunjukkan bahwa ahli waris mempunyai hak tagih yang sah atas tanah yang diwarisi. Apabila tanah tersebut ditetapkan sebagai tanah yang tidak ada, maka ahli waris harus memindahkannya kepada orang lain yang tinggal di wilayah di mana tanah itu berada dalam waktu satu tahun setelah meninggalnya pewaris. Kegagalan ahli waris dalam menaati larangan tersebut pada akhirnya menimbulkan konflik hukum.

Kata Kunci Hak Milik, Kepemilikan Jarak Jauh, Suksesi Properti, Perundang undangan Suksesi.

Introduction

Indonesia's natural resources, especially land, play a crucial role in national development, as it fundamentally links human existence to the sustainability of living environments and livelihoods (Andayani et al., 2024:9). The execution of the stipulations outlined in Article 10 of the UUPA

necessitates that the government promulgate Government Regulation No. 224 of 1961, which pertains to the implementation of land distribution and compensation. Following this, Government Regulation No. 41 of 1964 underwent amendments and additions, modifying and enhancing Government Regulation No. 224 of 1961 in relation to the execution of land distribution and compensation. (PP Implementation of Land Distribution and Compensation Provision).

The prohibition of absentee ownership of agricultural land stands as a vital component in the execution of the agrarian reform programme in Indonesia, as outlined in Article 3, paragraph (1), of the Government Regulation on the Implementation of Land Distribution and Compensation. The local population residing near agricultural land can reap the rewards of its stewardship and directly experience the agricultural landscape in their surroundings, aligning with one of the goals of the prohibition. Furthermore, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2016 highlights the stipulation concerning the ban on absentee ownership of agricultural land in Article 7 of the Regulation on the Control of Agricultural Land Ownership.

Absentee land ownership may arise from several legal occurrences, including the process of inheritance. According to the principles of *saisine* and *ijbari*, the heirs automatically inherit the land rights upon the death of the landowner (Andri 2024: 20). Absentee land ownership will occur if the heirs live outside the sub-district where the inherited land is located. This contradicts the stipulations outlined in Article 3c, paragraph (1), of the Government Regulation concerning the Implementation of Land Distribution and Compensation, which explicitly forbids absentee land ownership. The Central Statistics Agency (BPS) recognises Indramayu Regency as the largest rice granary in West Java (Rasmadi 2023). Given the information, it is essential for the residents of Indramayu, particularly those engaged in farming, to have ample access to agricultural land. In practice, numerous individuals in Indramayu, especially those engaged in agriculture, have faced significant challenges to their livelihoods or have seen a reduction in their earnings. This situation arises due to the fact that productive lands in Indramayu Regency are under the control of entities that are not directly engaged in their management. Various regions, including Indramayu Regency, continue to observe the ongoing practice of absentee land ownership by individuals not residing in the district. This situation highlights a discrepancy between current regulations and the realities faced in practice. Consequently, the investigator selected

Indramayu Regency as the site for the study, taking into account that this area is the largest rice-producing region in West Java and possesses a notable level of absentee land ownership.

Izharudin Hannan conducted a prior study on absentee land, entitled "Implementation of Absentee Land Handling (Guntai) in Brebes Regency." This research examines the regulation of absentee land within the framework of positive law and the implementation of absentee land management in Brebes Regency. This research aims to analyze and examine the regulations concerning absentee land (guntai) within the framework of positive law in Indonesia, as well as to assess the implementation of absentee land management in Brebes Regency.

This study examines absentee land broadly in relation to the regulation and enforcement of restrictions on absentee land ownership. Meanwhile, the investigator will specifically discuss the practice of absentee land ownership post-inheritance. This study aims to identify and examine the factors contributing to absentee land ownership practices following inheritance in Indramayu Regency, as well as the legal consequences associated with these practices in the same region. This research aims to explore the factors influencing absentee land ownership practices following inheritance in Indramayu Regency, as well as the legal implications associated with these practices in the same region.

Methods

The research method employed is qualitative, utilising a juridical-empirical approach. This study employs both primary and secondary data sources. Directly gather primary data through interviews and observations while acquiring secondary data through literature reviews and documentation.

Results & Discussion

A. Factors Causing Absentee Land Ownership Post-Inheritance In Indramayu Regency

As time progresses, the increasing population is contributing to a heightened demand, particularly for land. The role of land extends beyond agricultural use; it also encompasses residential purposes, rental opportunities, and transactions involving buying and selling. Consequently, it is crucial to guarantee the legal clarity surrounding land use.

Nonetheless, in the context of Indonesia, there remains a significant number of individuals who possess land absentee, despite the existing prohibitions and regulations governing this issue. This phenomenon involves several factors that influence the practice of absentee land ownership following inheritance, particularly in Indramayu Regency. Several of these elements encompass the following:

1. Social Factors

The social factors influencing absentee land ownership after inheritance in Indramayu Regency can be examined through two dimensions: legal awareness and community culture. The community, as a collective governed by legal frameworks, significantly influences the efficacy of the law. Maintaining order within society is essential, particularly for fostering peace in social interactions, which encompasses both the physical aspect of order and a sense of tranquility (psychological aspects). In light of this context, it is evident that despite the government's issuance of various regulations aimed at curbing absentee land ownership in agriculture, these efforts may prove ineffective. The successful implementation of such regulations is largely contingent upon the community's awareness and active involvement. The community's understanding of the significance of these regulations and their readiness to adhere to them are crucial elements in fulfilling the goals of the policy.

The level of legal awareness within the community in Indramayu Regency remains quite limited. Despite the ongoing prohibition regarding the ownership or control of absentee land, current field practices indicate that numerous individuals persist in owning or controlling such land. This situation frequently arises from a deficiency in comprehension and awareness within the community about the laws that regulate absentee land.

Nevertheless, the government has yet to implement adequate measures to address the issue of absentee land ownership or control, leaving the public with a limited understanding and recognition of the concept of absentee land. Consequently, the presence of regulations that restrict absentee land ownership seeks to mitigate extortion and other complications that stem from the challenges of oversight by landowners. Enhancing the community's comprehension of the regulations against absentee land ownership or control is anticipated to encourage adherence to these rules. Mr. Edi Suherman, the Land Administration Officer in the Control and Dispute Resolution Section, provided the following explanation:

"Regular interaction and oversight are essential. Engaging in socialization without supervision is futile. In this context, the entity that holds the utmost importance in the realm of education is the local government, as it plays a crucial role in this domain. (Interview with Mr. Edi Suherman as the Land Administration Officer in the Section of Control and Dispute Resolution at the Land Office of Indramayu Regency, on Wednesday, October 9, 2024, at 15:40 WIB)."

Organizing regular informational sessions is a key measure that can enhance public understanding of the ban on absentee land ownership or control. Nonetheless, this socialization will prove ineffective in the absence of proper supervision. The Level II Regional Land Reform Committee conducts the oversight in question. Local governments, such as village administrations, play a significant role in this educational process due to their understanding of the land conditions within their jurisdictions, including issues related to absentee land ownership.

To enhance the public's understanding of the restrictions on absentee land ownership or control, a viable approach is to implement consistent socialization efforts. Nevertheless, this socialization will prove ineffective without proper oversight. The Regional Level II Land Reform Committee is responsible for the oversight in question. The local government, especially the village government, plays a crucial role in this educational process because they understand the land conditions in their area, including issues related to absentee land. The absence of legal understanding significantly influences the adherence of heirs, as numerous individuals lack a proper grasp of land regulations. This increases their propensity to readily adhere to directives from those in positions of authority. Apart from the legal awareness dimension, societal and cultural factors also play a significant role.

Legal inheritance frequently triggers the phenomenon of absentee land ownership. Families, including both direct and collateral lines, as well as marital ties or the execution of a will, facilitate the transfer of inheritance (Putra 2019:154). The inheritance process is a common legal occurrence within families, yet it is crucial to consider it carefully in light of the restrictions on absentee ownership of agricultural land, particularly when the heirs reside near the land in question. We can address the issue of absentee ownership of agricultural land by requiring the heir to relocate their residence to the district where the inherited land is located. An alternative approach involves transferring ownership of the land to another individual or entity in the vicinity, such as family members or neighboring residents.

Despite the law's requirement for the division of agricultural land inheritance to happen within a year after the heir's death, many communities, especially in rural areas, follow different customs and traditions. People often deem it unethical to distribute inheritance before the 1000-day thanksgiving ceremony, known as "nyewu." This results in a scenario where established legal principles frequently conflict with entrenched social customs within the community. Furthermore, the postponement in the allocation of agricultural land inheritance is frequently influenced by various other elements. In addition to the influence of customs and traditions, farming families also hold the belief that they should only sell inherited land during emergency situations. For numerous agricultural families, land passed down through generations is more than merely a financial resource; it embodies deep emotional connections and a rich historical legacy. As a result, they often hesitate to part with the land unless they face pressing circumstances, such as the need to cover medical expenses for a family member.

Consequently, a significant number of individuals hold the view that land passed down through generations ought to be maintained, as it represents a heritage from their ancestors. Indeed, some heirs regard the inherited land as the final testament left by the departed. Furthermore, the heirs believe they possess complete rights over the land passed down through generations; thus, they maintain that the choice to sell or utilise the land is an unquestionable right that should not be challenged by anyone.

Executing the available legal options to circumvent the regulations concerning absentee land will present significant challenges. Often, village heads or officials prioritize the interests of heirs, despite potential conflicts with established regulations. This phenomenon frequently stems from the strong social connections that exist between the village leader and the community members. The village head's familiarity with both the heirs and the beneficiaries allows for a deeper comprehension of the circumstances and challenges encountered by the beneficiaries. Furthermore, humanitarian factors emerge as a significant aspect, particularly when the heirs assert that the inherited land serves as their means of sustenance.

A significant number of villagers relocate in pursuit of enhanced living conditions. Nonetheless, despite residing far from their place of origin, the emotional connection and attachment to their ancestral land persist robustly. Many individuals frequently plan to go back to their hometown village in their later years and live out the remainder of their lives there. Consequently, local

village officials frequently regard heirs residing outside the village as still being part of the village community.

They do not report the inherited land they possess as absentee land, which prevents its formal detection and recording in land ownership data. Consequently, government records do not classify it as a land reform object. For numerous farmers, agricultural land transcends mere asset status; it embodies a fundamental aspect of their identity and lifestyle. Previous generations have tended to the land with a profound emotional connection. Consequently, they dismiss the notion that individuals without a direct link to the farming community should possess ownership of agricultural land. Absentee land ownership represents a significant exploitation of natural resources and undermines the social order that has been in place for centuries.

The Indramayu Regency Land Office currently lacks precise data concerning absentee ownership or control of agricultural land due to this phenomenon. The absence of comprehensive reports from officials at the sub-district, village, and district levels contributes to the challenges in addressing absentee land ownership or control issues. The officials at the sub-district and district levels possess the most comprehensive understanding of the land conditions within a village. On the other hand, the Land Office only learns about land issues, including absentee land, when they receive applications or reports. This disconnect and lack of collaboration between these two entities have resulted in a rise in violations regarding the prohibition of absentee ownership or control of agricultural land.

2. Economic Considerations

The demand for land is on the rise, paralleling the increase in land prices. The value of land is substantial, particularly regarding its economic implications and its role as an investment asset. Indramayu Regency boasts fertile agricultural land across its subdistricts, earning a reputation as the largest rice granary in West Java. Indramayu Regency has seen a rise in absentee land ownership practices due to the community's recognition of land's economic value and its perceived future benefits as a form of security in old age.

Individuals who are not residents of the district where the land is located hold agricultural land under absentee land ownership. The Government Regulation on the Implementation of Land Distribution and Compensation explicitly forbids this ownership, with the goal of promoting the optimal use of agricultural land instead of its sole use as an investment

asset (Pinontoan, Muaja, dan Gerungan 2024:5–6). The primary motivation for the heirs of absentee landowners in Indramayu Regency to refrain from transferring or relocating their agricultural land lies in their conviction that its value will continue to appreciate over time, prompting them to view it as a valuable investment asset. Despite the challenges they face in managing the land due to its significant distance, the heirs typically choose to lease their agricultural land to third parties.

The government firmly roots the ban on absentee land ownership in its efforts to prevent entities without a direct connection to the area from controlling land. This policy serves not just as a regulation but as a calculated measure to safeguard the interests of the local community. In this context, it is crucial to recognize that this policy influences the administration of natural resources and their effects on the local community. For example, when non-local individuals manage land, they often neglect the condition of the land and its surrounding ecosystem. This may result in a deterioration of soil quality, harm to ecosystems, and adverse social effects that negatively impact the communities reliant on that land for their livelihoods.

Consequently, it is essential to examine the legal implications surrounding land ownership by individuals who are not residents of the area. This situation highlights that land ownership entails not only rights but also obligations that the owner is required to uphold. This indicates that the mechanism for safeguarding rights is not merely a function of the law but evolves into a process to guarantee responsible land management. An examination reveals the interconnection between the principles of inheritance law and the practice of absentee land ownership, both of which can influence the administration of inherited land.

The individual theory of inheritance law highlights the personal rights of heirs, allowing them the autonomy to oversee the inherited property. Nevertheless, a lack of comprehension regarding the associated duties can lead to the mismanagement of the land. This creates a pattern of underutilization of inherited land, which could potentially harm families and communities economically.

Conversely, the theory of collective inheritance law emphasizes the importance of collaboration among heirs in complying with the ban on absentee land ownership. Should the heirs fail to work together, the prevalence of absentee land ownership could rise. This occurs as each heir

prioritizes their individual interests, overlooking the broader implications for the land and the community over time.

The presented information highlights the urgent need to improve heirs' comprehension of the importance of sustainable land management practices. Training and education on effective land management can mitigate the risk of neglect and promote responsible inheritance practices. Furthermore, it is essential for the government, the community, and heirs to work together in order to develop policies that promote effective land management. With this support, it is anticipated that land will transform into not just a personal asset but also a resource that contributes positively to the community at large.

The ban on absentee land ownership and the connection between the theory of inheritance law and the practice of land ownership carry important consequences for land management. This policy seeks to safeguard land from abandonment while also promoting effective management practices that serve the interests of the community. A comprehensive grasp of the duties inherent in land ownership, along with the significance of collaboration among heirs, can facilitate the attainment of the prohibition's goals.

B. Legal Implications Of Absentee Landownership Practices Post-Inheritance In Indramayu Regency

Land represents a significant asset and acts as a vital source of livelihood for numerous communities, including those in Indramayu Regency. Property rights, whether held by individuals or groups, consistently play a significant role in the social and economic interactions within a community. An intriguing subject for examination is the practice of absentee land ownership, wherein individuals possess land without engaging in its direct management. The intricacies of this practice amplify significantly when intertwined with the process of inheritance. Consequently, Indramayu Regency's practice of absentee land ownership after the inheritance process carries the following legal consequences:

1. Responsibilities and Entitlements of Non-Resident Property Owners

Inheritance is the process that transfers wealth or assets from the deceased to their heirs after their death. The provisions outlined in Book III of the Civil Code (BW) automatically confer all rights and obligations to the heirs upon an individual's death (Hariyanto 2021:32). Note that only the rights and

obligations associated with inheritable property, specifically those quantifiable in financial terms, are transferable.

In the realm of civil law, upon an individual's death, they transfer two primary elements to their heirs: assets and liabilities. When an individual passes away and possesses land, that land will transfer to the heirs, who will legally assume ownership and gain the authority to manage it. When heirs acquire land outside their residential district, we classify it as absentee land.

The heir of absentee land bears responsibilities concerning the debts incurred by the deceased. The responsibility only extends to the value of the inherited estate. In the event that the heir possesses outstanding debts, the beneficiary is required to address these obligations, but this responsibility is limited to the extent of the inheritance acquired (Maripigi, Sondakh, and Anis 2021:123–24). Furthermore, heirs are required to fulfill their tax obligations on the inherited property they acquire, specifically absentee land, which may include income tax or a land and building tax.

Government Regulation No. 41 of 1964, which amends and adds to Government Regulation No. 224 of 1961 regarding the Implementation of Land Distribution and Compensation, mandates that the heirs of absentee landowners must actively cultivate the land as outlined in the regulation. Heirs are required to visit the site of the property to uphold their ownership rights over the inherited land. Consequently, it is essential for the heirs to have a thorough understanding of the legal regulations concerning absentee land ownership. In the context of land disputes, it is incumbent upon the heirs to address and resolve any ongoing conflicts related to the property in question.

Should the heirs contravene the specified legal provisions, they will encounter legal repercussions, including the potential confiscation of land by the government. Article 3, paragraph 5 of the Government Regulation on Land Distribution and Compensation will then allocate this land to the surrounding community. Should the heirs persist in hindering the enforcement of this regulation as outlined in Article 19, they could face imprisonment for a period not exceeding 3 months and/or a monetary penalty of up to Rp 10,000.00.

Understanding the rights associated with land is essential for comprehending the legal implications of absentee land ownership practices following inheritance in Indramayu Regency. This aligns with the theory of ownership as articulated in the Bundle of Rights Theory, which conceptualises

land ownership as a compilation of specific rights, including the rights to use, sell, lease, and transfer the land. Grasping this theory is crucial for understanding the separation and transfer of land rights.

When it comes to absentee land, especially for heirs, there are specific rights and obligations to consider, such as transferring the land to individuals living within the same sub-district as the land's location. Should the heirs fail to fulfill this obligation, we anticipate that they will relocate closer to the location of the inherited property. However, if the heirs fail to fulfill this obligation, the government may expropriate the inherited land and redistribute it to the local community.

In the realm of inherited absentee land, heirs find themselves obligated to adhere to the relevant legal frameworks, regardless of their complete comprehension or agreement with those frameworks. Legal penalties enforce the restriction on absentee land ownership. Consequently, it is essential for heirs to adhere to the restrictions regarding absentee land ownership.

A thorough examination of the current regulations indicates that consistent enforcement of the sanctions would serve as an adequate deterrent. Furthermore, Article 19 stipulates a criminal penalty for individuals who deliberately hinder the enforcement of the Government Regulation, which may result in a maximum imprisonment of 3 months and/or a fine of up to Rp. 10,000. However, considering the regulation's establishment in 1961, the amount of the fine appears to be less effective as a deterrent when viewed from a contemporary perspective. Consequently, it is essential for the government to reassess the regulation that restricts absentee land ownership, especially in relation to the penalties imposed on heirs who fail to adhere to the current provisions.

In the context of absentee land inheritance, heirs who inherit the land with full rights not only have the right to the property, but also have the obligation to manage or use it efficiently. Therefore, it is highly likely that the heirs will follow the current regulations, either by transferring the land outside the district to another party in the same location, or by transferring the land ownership to the same district within a year of the testator's death. Article 6 of Government Regulation Number 4 of 1977 establishes the stipulations regarding the Ownership of Agricultural Land in Absentia for Retired Civil Servants:

"A civil servant who is absentee may acquire agricultural land within a period of 2 (two) years prior to retirement, up to 2/5 (two-fifths) of the maximum land ownership limit applicable to the respective Level II Region."

The article clearly delineates an exception regarding absentee land ownership for civil servants, permitting them to acquire agricultural land absentee within the two years leading up to their retirement. Therefore, by contrary reasoning, if the absentee landowner does not hold civil servant status during the two years preceding retirement, it follows that absentee land ownership is evidently not allowed. Furthermore, as stated in Article 2, paragraph (4) of the Government Regulation on the Ownership of Absent Land for Retired Civil Servants:

"(4) If heirs who do not qualify to possess agricultural land under a joint ownership arrangement inherit land from a civil servant, a retired civil servant, or their widow, as mentioned in paragraph (3), they must dissolve the joint ownership within one (1) year of the owner's passing."

According to Article 2, paragraph (4), of the Government Regulation concerning Absent Ownership of Agricultural Land for Retired Civil Servants, it is clearly articulated that in the event the heirs do not meet the qualifications to hold agricultural land as absentee owners, the absentee ownership must be dissolved within the designated timeframe following the owner's demise. Consequently, it follows that the heirs are required to either visit the site of the specified land or facilitate its transfer to another party within the same sub-district as the land's location.

2. Legal Dispute

The Dispute Control and Handling section's information reveals that absentee land disputes are still pending as of October 2024. A party has expressed concerns about the ownership of their current residence, which is connected to the location of the contested land. Nonetheless, this dispute has not attained permanent legal status as it remains under consideration at the local District Court. Every agency follows certain procedures when addressing disputes, such as the Indramayu Regency Land Office, which consistently emphasizes mediation rather than escalating the matter to court. The Indramayu Regency Land Office underscores the importance of mediation in resolving land disputes. Mediation holds significant value for both parties involved, as the results achieved through this process are often more

advantageous. The dialogue between the parties fosters a sense of fairness in resolving the matter at hand.

This matter arises from one party's absentee land and their failure to meet the obligations outlined in the current regulations. This has led to the development of a conflict. One possible reason for this situation could stem from the lack of awareness among the parties involved about the restrictions on absentee land ownership. Consequently, it is essential to engage in socialization to foster an understanding of the restrictions surrounding absentee landownership. This is due to the fact that, as per the acquired acknowledgement, the Indramayu Regency Land Office has not engaged in any socialization efforts concerning the prohibition of absentee land ownership or control over the public.

According to the stipulations outlined in Article 19, paragraph (2), of the Government Regulation concerning the Execution of Land Distribution and Compensation, there are penal consequences for individuals who deliberately hinder the enforcement of these regulations. However, the Indramayu Regency Land Office has yet to implement these criminal sanctions. This suggests that the enforcement of regulations concerning the prohibition on absentee land ownership or control is lacking in rigor. Moreover, the community readily disregards the existing penalty of Rp 10,000.00, perceiving it as insufficient. The mildness of this penalty stems from the rules established in 1961, with no notable amendments to date.

The legal adagium "het recht hinkt achter de faiten aan" signifies that the law consistently trails behind the evolving circumstances of society. This indicates that legal frameworks must adapt to current advancements, rather than the reverse. Legal frameworks emerge as a reflection of the prevailing circumstances of their era (Binawan 2022:318). Consequently, as changes take place over time, it becomes essential to implement adjustments to prevent conflicts or uncertainties in regulations, both in relation to the 1945 Constitution of the Republic of Indonesia and in alignment with other relevant laws and regulations.

This universal adagium principle is pertinent in the context of regulations concerning the ban on absentee land ownership and control. This aligns with the notion of evolving legal principles championed by Satjipto Rahardjo, who emphasizes that the legal framework must adapt to contemporary realities, tackle more intricate issues and challenges, and fulfill

community needs grounded in the ethical standards of those who enforce the law (Nurjanah & Hermanto, 2022, p. 11). In the present developed era, the considerable distance between the land and the heirs' residence does not pose a significant barrier. Consequently, there is a connection to the legal principle that asserts the law must evolve alongside societal changes, rather than requiring society to conform to outdated legal standards. Consequently, the regulations governing the ban on absentee land ownership and control, originating from the 1960s, require a thorough review to ensure they are in line with contemporary developments.

The simplicity of overseeing the transfer of absentee land rights has resulted in a rise in the trend of absentee land ownership. Prior to the introduction of electronic identification cards, numerous individuals relied on domicile certificates or accompanying declarations affirming their intention to reside in the agricultural land area within a one-year timeframe. This enables the continuation of land rights transfer at the Indramayu District Land Office. We use this domicile letter because there was no NIK requirement for land rights transfer at that time.

While an electronic ID card program is in place, the transfer process remains straightforward and can be executed with a declaration letter. Nonetheless, this results in a clash between agrarian or national legislation and customary practices concerning the use of domicile certificates. Regulations within agrarian or national legislation clearly forbid the ownership of land by those who are not present. In customary law, on the other hand, a domicile certificate often proves an individual's residency in the village where their land is located.

The current state of agrarian law exhibits a "dualistic" character, indicating that Basic Agrarian Law (UUPA) aims to harmonize national legislation with customary practices (Ambarwati et al. 2022:234). Therefore, we should avoid a conflict between national law and customary law, as national law has integrated the principles of customary law.

Legally perspective, the UUPA must strictly adhere to the mandatory regulations concerning absentee land ownership. The appropriate authorities have instituted all regulations pertaining to absentee land ownership, following established procedures, giving them formal validity. Nonetheless, many of the current regulations fundamentally fail to adapt to the evolving dynamics of

societal changes and the realities faced by the community, given that these legal frameworks originate from the 1960s.

During the 1960s and 1970s, the relevant institutions collaborated strongly to effectively implement the rules concerning the ban on absentee land ownership or control. Since the 1980s, there has been a noticeable decline in coordination, resulting in diminished collaboration among various government institutions, such as the National Land Agency (BPN), local governments, law enforcement agencies, and the community, in tackling the issue of absentee land ownership. The underlying problem lies in the inadequacy of the management system.

Article 2 of Government Regulation No. 48 of 2020, which pertains to the National Land Agency, establishes the agency's responsibility to execute land sector governance in compliance with relevant laws and regulations. Consequently, BPN possesses the power to oversee and administer land matters, as well as to formulate policies designed to tackle challenges associated with land, including the issue of absentee ownership of agricultural land.

However, field data indicates that the Indramayu District Land Office has not taken significant steps to tackle absentee land ownership or regulation. The Government Regulation on the Implementation of Land Distribution and Compensation explicitly prohibits absentee land ownership, yet the Indramayu Regency continues to witness numerous cases of such ownership. This suggests that the Land Office has not effectively executed its oversight and regulatory responsibilities regarding land ownership.

Both the Government Regulation on the Implementation of Land Distribution and Compensation and Article 1 of Presidential Decree No. 131 of 1961 concerning the Organisation of Land Reform Implementation spell out what powers district and city local governments have when it comes to land issues. This includes aspects related to land redistribution and compensation for excess and absentee land. Therefore, each district and city local government must establish a land reform committee.

Nonetheless, the findings indicate that Indramayu Regency has yet to meet its requirement to establish the land reform committee. According to Article 6, paragraph (1), of the Organisation of Land Reform Implementation, the Level II Regional Land Reform Committee is composed of the Regent serving as the Chairperson, the Head of the Regional Agrarian Office acting as

the Vice Chairperson, along with the Heads of Regional Agencies from the Departments outlined in Article 3, paragraph (1), the Head of the Farmers and Fishermen Cooperative Bank, and representatives from Farmers' Organisations.

To prevent conflicts of interest in the management and use of agrarian resources, as well as in resolving agrarian disputes, it is essential for the government, in its capacity as the executor of state power, to exercise its authority in regulating these resources. This regulation aims to ensure the maximum welfare for the community (Ramli, 2016:80-86). Inheritance rights and responsibilities can be complicated when the landowner is absent. This presents difficulties that encompass not just legal aspects but also social and environmental considerations. When a property owner decides against residing on their owned land, various implications must be taken into account.

John Locke's ownership theory, which emphasizes the relationship between individuals and their land, plays a crucial role in analyzing this phenomenon. John Locke contended that land ownership stems from an individual's labor and effort, implying that landowners bear moral and ethical obligations that they must uphold. Nonetheless, in instances of absentee land ownership, issues emerge concerning the validity of such ownership, particularly when the landowners are not actively involved in the management and use of the land.

Within the realm of law, the ownership of land by absentee individuals may infringe upon the fundamental tenets of social justice. The pursuit of social justice is predominantly the responsibility of the state, as its policies significantly influence the formation of structures pertinent to political, economic, social, cultural, and ideological processes (Ramli, 2012:50). This inequity stems from the mismanagement of land, which can result in disputes between property owners and surrounding communities. Poor management of the surrounding land often creates a sense of disadvantage for local communities, leading to a decline in their quality of life. For instance, when land designated for agricultural use is abandoned and left untended, the local community may find themselves deprived of essential food resources.

Analyzing this issue through the lens of John Locke's property theory reveals a breach of the principle that land ownership necessitates corresponding effort and stewardship. Within the framework of Locke's theory of ownership, the concept extends beyond mere individual rights to

encompass a broader sense of social responsibility. Landowners' failure to fulfill their obligations overlooks the local community's rights to access and use the land. This generates friction between property holders and the local populace, potentially resulting in disputes.

The analysis indicates that landownership inherently carries the obligation to manage and utilize the land in an effective manner. Consequently, the government, in its application of the law, places a strong emphasis on justice (Ramli, 2023:409-444). The theory of property articulated by John Locke offers a foundational perspective on the dynamics between landowners and the broader societal context. We anticipate that this approach will establish an equilibrium between personal liberties and societal obligations. According to John Locke's theory of ownership, possessing land entails not just a right but also an obligation to manage and use the land in a way that benefits the community.

Conclusion

We can analyse the elements contributing to the phenomenon of absentee land ownership following inheritance in Indramayu Regency through social and economic lenses. The findings suggest that this phenomenon stems from the community's limited understanding of the legal restrictions on absentee land ownership, coupled with a societal culture that inadvertently supports and safeguards the persistence of such practices. The community's failure to adhere to this prohibition stems from a lack of awareness regarding the current regulations. Furthermore, the heirs hold the perspective of transforming absentee land into a financial asset and a security for their retirement. The implications of absentee land ownership practices following inheritance in Indramayu Regency are evident in the rights and responsibilities of the heirs, as well as the potential for legal disputes. Beneficiaries possess the entitlement to the inherited property, which encompasses the authority to oversee its management. In cases where the land is designated as absentee land, the heirs must ensure its transfer to another individual living in the district of the land within one year following the testator's passing. Nonetheless, the heirs did not meet this obligation, arguing that the geographical separation of the districts did not impede the ongoing cultivation of the land. Consequently, this situation has resulted in a legal conflict stemming from the heirs' failure to adhere to the regulations governing absentee land ownership.

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