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DETERMINATION OF LAND PROCUREMENT OBJECTS AND ITS IMPLICATIONS FOR THE CALCULATION OF COMPENSATION FOR BRIDGE CONSTRUCTION

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Abstract

Land procurement for bridge construction is part of the government's efforts to improve community welfare, in accordance with Article 33 paragraph (3) of the 1945 Constitution and regulated in Law Number 2 of 2012 concerning Land Acquisition. This procurement goes through 4 (four) stages, namely planning, preparation, implementation and delivery of results, but the implementation stage often encounters obstacles, such as changes in land objects. Cases of changes in land area involving watersheds (DAS) which are not part of the procurement object, affect the calculation of compensation. This research aims to analyze the determination of land acquisition objects and its implications for calculating compensation for development. The research results show that the determination of land acquisition objects is based on the Location Determination from the Governor, the Land Plot Map from Task Force A, and the Nominative List from Task Force B. Changes in land area due to watersheds have implications for calculating compensation for land owners. Based on Gustav Radbruch's theory of legal certainty and Walt W. Rostow's development theory, the construction of this bridge plays an important role in encouraging economic growth.

Keywords: *Land acquisition, Land acquisition object, Compensation for losses.*

Introduction

Indonesia as an archipelagic country has many waters that separate its regions, so that bridge construction is an important solution to improve connectivity between regions. The construction of bridges that cross waters, including rivers and straits, requires careful planning, especially in terms of determining the object of land acquisition. In large infrastructure projects like this, the land acquisition process is a very crucial initial stage because it will determine the smoothness of the overall development. The land that will be used for the foundation and access of the bridge must be determined carefully, including considering environmental aspects such as the existence of River Basins (DAS).

In accordance with Article 33 paragraph (3) of the 1945 Constitution, the state has the right to manage natural resources for the prosperity of the people, which in this case is realized through infrastructure development for the public interest. Land acquisition is an important part of the Batam-Bintan bridge construction process, as regulated in Law Number 2 of 2012 concerning Land Acquisition for the Public Interest. This land acquisition process involves several stages, namely planning, preparation, implementation, and submission of results.

Determining the object of land acquisition becomes complex when there are natural factors such as DAS that affect the boundaries of the land that can be used. Watersheds are not included in the land acquisition object because they are areas that function for water and ecosystem conservation. Therefore, land around the watershed cannot be acquired for development purposes. This causes changes in the area of land that was originally planned to be taken. In many cases, these changes can have serious implications for the calculation of compensation that must be given to landowners.

The implications of changes in land area due to the existence of watersheds have a direct impact on the calculation of compensation. When the area of land that can be taken is reduced, the compensation value that was previously calculated based on the initial area must also be adjusted. Landowners whose land is affected by the bridge project are entitled to compensation in accordance with the size of the land taken. If there is a reduction in land area due to factors such as watersheds, the calculation of compensation needs to be corrected so that it remains in accordance with the area of land that is actually acquired.

Therefore, it is important for all parties involved in land acquisition, including the government and landowners, to understand the changes that may occur during the infrastructure development process. The calculation of compensation must take into account changes in land area caused by environmental factors such as watersheds, so that the compensation given remains fair and proportional. Thus, the planned bridge construction can run smoothly without conflict, and provide optimal benefits in connecting regions in Indonesia that are separated by waters.

Methods

This research uses a qualitative legal approach that intends to understand the phenomena of what is experienced by the research subjects, such as behavior, perception, motivation, actions, and others holistically and by means of description in the form of words and language in a specific natural context and by utilizing various natural methods. Then the type of juridical-empirical research is research conducted on the actual conditions that occur in society, with the intention of finding facts that are used as research data which are then analyzed to identify problems and are based on evidence obtained from observations or field research. The data sources used are primary data obtained through observation, interviews and documentation.

Result and Discussion

1. Determination of Land Acquisition Objects for Bridge Construction

Infrastructure development is part of the implementation of state policies that require land as one of the elements of strategic development of national development. The increasingly limited availability of land has made the state carry out land acquisition for public interest as part of achieving national goals in the land sector as regulated in the provisions of Article 33 of the 1945 Constitution which states: “earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people”.

Land acquisition by the government for development in the public interest is a land acquisition process carried out by providing appropriate compensation to the rightful owner of the land. The rightful party is an individual or entity that controls or owns the object of acquisition. Meanwhile, the object of land acquisition includes land, space above and below the ground, buildings, plants, and other objects related to the land and can be assessed.

Determining the object of land acquisition is one of the activities in development that involves various aspects because it is related to the public interest. Land Acquisition Objects include land, space above and below the ground, buildings, plants, and other objects related to the land that can be assessed. The land acquisition process requires a series of stages that must be carried out carefully and in accordance with applicable regulations. The construction of the bridge is carried out through four stages, namely planning, preparation, implementation, and handover of results. This process aims primarily to ensure that the land needed for public interest is obtained transparently and with legal certainty. This study emphasizes the importance of following

established procedures and ensuring the protection of landowners' rights during the process.

The mechanism for implementing land acquisition as regulated in Law No. 2/2012. The purpose of the stages in land acquisition is to ensure that the procurement process runs transparently, fairly, efficiently, and in accordance with applicable regulations. Each stage is designed to reduce the risk of conflict, provide legal certainty, and guarantee the rights of the community and related parties. The object of land acquisition in question is the location of the bridge construction itself.

Based on the Regulation of the Minister of ATR/BPN No. 19/2021 Article 106 paragraph 2 which essentially states that in the event of objections to the results of the inventory and identification, the implementer must verify and correct the PBT and nominative list, for which Task Force A will correct the data again and identify if there is a DAS at the land acquisition location. Thus, changes to the improvement of the inventory and identification data in the form of PBT and the nominative list are again submitted to the head of the land acquisition implementation and then announced again.

In this case, the area of land that can be used as an object of land acquisition has been adjusted by removing the DAS section. The River Basin Area (DAS) is not included in the object of land acquisition because the DAS is a natural area that includes all areas that accommodate and drain rainwater into rivers, from upstream to downstream, including tributaries. The function of the DAS focuses more on environmental management, water conservation, erosion control, and flood mitigation. The existence of a DAS indicates that not all parts of the land can be used for procurement purposes.

The part that is included in the DAS usually cannot be converted or made an object of land acquisition because the DAS has a conservation and environmental protection function. The part of the land that is not

the DAS can remain an object of acquisition, while the DAS part must be excluded from the transfer of ownership or use that is of a nature that changes environmental conditions, in accordance with the applicable rules for DAS management. The DAS area will be technically separated from the land acquisition object and recorded as a protected area that cannot be used in land acquisition projects. The location of the land remains, but the DAS within it becomes a protected area and cannot be taken over for acquisition. In the land acquisition process after cross-checking, field identification, and data correction by Task Force A and Task Force B, if this has been done, it reflects legal certainty. This process indicates that the data used in land acquisition has been updated and adjusted to the reality in the field.

In the context of the theory of legal certainty according to Gustav Radbruch, the element of legal certainty (Rechtssicherheit) means that the law must be certain, clear, and reliable by the community. This legal certainty demands that every rule of law can be easily understood, applied consistently, and does not cause uncertainty in its application. Legal certainty demands that regulations related to land acquisition, especially regarding objects that may and may not be used for procurement, must be clear. Thus, in the perspective of Gustav Radbruch's legal certainty, the land acquisition process in this study finally reflects the principle of legal certainty because landowners now have certainty regarding the area of land that is the object of procurement and which parts are not affected by procurement (DAS). So, after improving the data and separating the DAS from the object of land acquisition, this process is already on a path of legal certainty, because all parties involved are now operating with accurate information and in accordance with the rules.

2. Implications of Changes in Determination of Land Acquisition Objects on Calculation of Compensation for Bridge Construction

As a consequence of realizing sustainable development of the country, it must be based on the principle of social justice and the welfare of all people, both in terms of physical and non-physical (mental) development. In the development process, there are 2 (two) important activities that must be carried out, namely land acquisition and implementation of development projects. Land acquisition is the process of providing land which is carried out by providing fair and proper compensation to the entitled party.

Land acquisition for the construction of the Bridge does require the acquisition of land owned by residents to be used as state land through a compensation process. This compensation is a form of justice and fairness given to the entitled party in the procurement process. The principle of compensation is that the landowner has the right to receive proper compensation. The basis for the assessment aims to determine the value of the land to be acquired and as a reference in calculating the amount of compensation for the Entitled Party.

Land assessment for the procurement of Bridge construction is carried out by a Public Appraiser. The Assessor's task is to determine the amount of compensation for each plot of land, which includes the land itself, space above and below the ground, buildings, plants, objects related to the land, and other losses that can be assessed. Before being regulated in Law No. 2/2012, the Appraisal Institution or Land Price Appraisal Team was only introduced through Presidential Regulation Number 36 of 2005 concerning Land Acquisition, which was later amended by Presidential Regulation No. 65 of 2006. Previously, land price assessment was the responsibility of the land acquisition committee. However, this committee often did not act objectively in assessing land prices for public development, tending to favor parties

who needed land and ignoring the interests of land owners. This led to the birth of Law Number 2/2012 which regulates appraisal institutions to calculate compensation.

Public Appraisers are independent and professional individuals who have a practice permit from the Minister of Finance and a license from the Land Institute. They are members of the Public Appraisal Services Office (KJPP) and follow the Indonesian Appraisal Standards (SPI) in accordance with the Regulation of the Minister of Finance No. 101/PMK.01/2014. After obtaining approval from the community, the BPN and the Provincial Government select certified Public Appraisers to assess the land to be acquired.

The provisions of Article 31 of the Land Acquisition Law emphasize the importance of professional and credible public appraisers to ensure fair compensation values and are used as a basis for deliberation. Public Appraisers are responsible for assessing the compensation value for each plot of land. The implementation of this assessment must be carried out through direct inspection of the location by a public appraiser. This task includes assessing the price of land, space above and below the land, buildings, plants, objects related to the land, as well as non-physical losses such as loss of business, moving costs, changes in profession, and the value of the remaining property.

The role of the Appraiser is very important in determining the compensation value according to Article 34 paragraph (3) of the Land Acquisition Law. In the land acquisition assessment, the Assessor uses the Nominative List from Task Force B and the initial budget from the party requiring the land. The final value may differ from the initial budget because the independent assessment according to Article 32 of the Land Acquisition Law includes objects above and below the land based on an assessment that considers physical and non-physical losses. Therefore, it is important for the KJPP Assessor to obtain a valid

Nominative List from the Batam City Office as a basis for calculating compensation for Bridge Construction.

In fact, public appraisers assess land and assets owned by landowners using SPI 306 and following Law No. 2/2012 and PMK No. 228/PMK.01/2019. Appraisers must conduct data investigations to ensure the reliability of information without reducing the credibility of the assessment results. If data discrepancies are found, the scope of the assignment must be adjusted and discussed with the assignor. Changes in data must be stated in the approved minutes. Appraisers must also consider the materiality of the information, the competence of third parties, the independence of third parties, and whether the information is in the public domain.

Public appraisers must use reliable data, as explained in SPI 306. After ensuring that the data used is reliable, the public appraiser calculates physical and non-physical compensation for landowners affected by land acquisition. Non-physical losses can include potential job loss, emotional losses, transaction costs, and waiting period compensation. After determining the amount of compensation, the public appraiser must prepare an assessment report that includes assignment instructions, objectives, basis for assessment, analysis results, and value opinions. The report also explains the analysis process and the important information used. All the details of compensation and asset prices are listed in the report.

To avoid errors in compensation assessment, public appraisers must investigate the data used. According to SPI 306, the investigation must be in accordance with the assessment objectives and scope of the assignment. If data discrepancies are found, the scope of the assignment must be adjusted and discussed with the assignor. The appraiser must ensure that the information obtained is reliable and does not affect the credibility of the assessment results. If there is any doubt, the information should not be used. After the appraiser is sure of his

assessment, the report is submitted to the Land Agency. Based on the Land Acquisition Law, this report becomes the basis for compensation deliberations between the Land Agency and the landowner.

The accuracy of compensation determines the smoothness of the land acquisition process. Compensation must be fair to all parties, and public appraisers must consider the rights and interests of landowners, even though they are assigned by the government. Assessment of compensation for non-physical losses is carried out to ease the emotional burden on landowners due to land acquisition. The goal is for the assessment results to satisfy all parties and avoid disputes. The assessment report becomes the basis for land acquisition deliberations and is important for the smoothness and success of the project. Good, accurate, and fair assessments reduce the possibility of disputes, so that projects can run faster and more cost- effectively. Therefore, Public Appraisers must uphold the principles of land acquisition and follow applicable regulations.

The clarity of the land acquisition stage mechanism regulated in the Land Acquisition Law does not guarantee that its implementation in the field will run smoothly as stated in the regulations. This can be seen from the change in area so that public appraisers in this case KJPP must recalculate compensation for the land area. In the context of bridge construction and changes in the area of land acquisition objects, Walt W. Rostow's development theory, which highlights the stages of economic growth, can be significantly linked to the land acquisition process, especially in the context of infrastructure development.

Land acquisition is an important part of each stage of development outlined by Rostow because land is often a key factor in facilitating economic growth, especially at the “take-off prerequisites” stage to achieve higher progress. In the context of bridge construction, Walt W. Rostow’s development theory can be applied especially at the “take-off prerequisites” and “take-off” stages, where large infrastructure such as

bridges are key to supporting faster economic growth and regional integration. The construction of bridges aims to improve connectivity between these two strategic areas, which has the potential to accelerate economic development in the region through increased mobility of goods, services, and people.

In later stages, such as “towards maturity” and “high consumption period”, land acquisition serves to strengthen sustainable development and improve people’s quality of life. In addition, the state will pay more attention to efficient land use and balance between economic development and environmental conservation. In the context of modern development, the land acquisition process must consider economic and social needs at the same time, in line with Rostow’s stages of development, so that the country can achieve sustainable and equitable growth. The construction of infrastructure such as bridges like this requires land acquisition as a basic requirement. Land acquisition in this case is very important because without the provision of proper land, the project cannot be executed. Land acquisition must also go through clear administrative and legal stages, such as calculating compensation to land owners.

In the specific case of bridge construction, if there is a change in the area of the land acquisition object, there must be an adjustment in the amount of compensation. This compensation adjustment shows the importance of accurate calculations and accountability in the land acquisition process. A number of factors may affect changes in the area of the land object, such as corrections in measurements, revisions to project planning, or changes in technical needs. This reduction in the area of land acquired indicates an evaluation and revalidation of the development plan and more realistic land needs.

The difference in compensation that must be returned to the state treasury illustrates that financial accountability in large infrastructure development projects, every allocation of funds for compensation must

be accounted for. If there is an overpayment or discrepancy in land acquisition, the funds must be returned to maintain the integrity of the use of the public budget. Measurement and revalidation of the land acquisition process often requires careful measurement, because errors in measuring the area of land can affect the amount of compensation given. Revisions to the area of land indicate a revalidation that aims to ensure that compensation payments are in accordance with the correct land size. Efficiency in land acquisition with the return of these funds, it is clear that the government or related parties are trying to maintain efficiency in the use of the budget for the project. This is in line with efforts to optimize spending and ensure that every fund spent is truly in accordance with land needs. Relevant to the Rostow development stage in the take-off and take-off prerequisite stages, the country began investing in large infrastructure to support industrialization and economic growth. The bridge project is a real example of infrastructure that aims to strengthen connectivity and stimulate local and national economic development.

However, this large infrastructure development requires proper handling of land acquisition, where factors such as land area and compensation must be managed carefully. By adjusting compensation based on changes in land area, it also illustrates that infrastructure projects in this development stage require transparency and accountability to maintain the legitimacy of the project and ensure that the state budget is used efficiently and on target. Thus, the land acquisition process in bridge construction not only supports the realization of infrastructure that drives economic growth, but also shows the importance of careful, accurate, and responsible financial management in the implementation of development projects according to Rostow's stage theory.

The land acquisition process in bridge construction is an integral part of the stages of economic development as explained by Walt W.

Rostow's theory. From land acquisition planning to the compensation process and social impact management, all of these elements reflect the importance of good management in supporting large infrastructure projects. Land acquisition not only facilitates physical development, but also becomes a tool to achieve broader and more sustainable economic growth. Adjustment of compensation and return of the difference to the state treasury show that financial transparency and accountability are important parts of this process. By following the principles of efficient management, land acquisition can support the country in achieving more advanced stages of economic development in accordance with Rostow's theory while still ensuring that landowners' rights are respected and state finances are well managed.

Conclusion

Based on the description and results of the research that has been carried out, the following conclusions can be drawn:

1. Determination of Land Acquisition Objects for Bridge Construction in its implementation through 4 (four) stages, namely the planning, preparation, implementation, and submission of results stages. These stages are in accordance with Law No. 2/2012 concerning Land Acquisition for Development in the Public Interest. Determination of land acquisition objects is based on the Determination of the Location of the Governor's Decree, Land Plot Map, and Nominative List. However, in the implementation stage, there was a change in the land area on the land plot due to changes in the land acquisition object which was identified as a River Basin Area (DAS) which was not the object of land acquisition. So that the land area that is the object of procurement is reduced and adjusted to the actual data. This data change is based on Article 106 paragraph 2 of the ATR/BPN Regulation No. 19/2021 which as the main point in the case of objections to the results of the inventory and

identification, the implementer must make data corrections in accordance with Gustav Radbruch's legal certainty theory which examines the contents of the regulations governing land acquisition.

2. Implications for Compensation Calculation for Bridge Construction, changes in the area of land acquisition objects in bridge construction experience compensation adjustments with the difference being returned to the state treasury, reflecting the application of the principles of efficiency and accountability according to Walt W. Rostow's development theory. In the preconditions for take-off and take-off stages, resource management such as land must be carried out carefully to support infrastructure that drives economic growth. This adjustment process shows that infrastructure development, in addition to driving economic development, also needs to be carried out with transparency and responsibility for the welfare of the affected community and the sustainability of the project in the future.Conclusion contains a description that should answer the objectives of research. Provide a clear and concise conclusion. Do not repeat the Abstract or simply describe the results of the research. Give a clear explanation regarding the possible application and/or suggestions related to the research findings.

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