

# Licensing of Land of State as Soyness of Agricultural and Land Function at Semarang Regency

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**ABSTRACT:** Indonesia is a legal state, in the execution of a judge is an object that is very important for a trial. In Indonesia alone the practice of fraud and manipulation is still common and often encountered in a trial, the duty of a judge who should be neutral and decide a case with as fair as possible can often be manipulated by the bribery process of a suspect. the power of a judge alone is set in the law of the judicial power law number 48 of 2009. There it has been explained everything about the duties and authority of a judge and how to be a just judge and then can put a suspect into a subject rather than an object. Often in finding a judge complicates a case that is actually trivial and gives a burdensome decision for the little people and even facilitate a big case with a suspect of important people, a concept that is not denied a thing that we often see in law.

**KEYWORDS:** Justice, Court Decision, Fraud, Agrarian Conflict



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## I. INTRODUCTION

Land is one of the assets owned by the Regional Government. Allotment from the ground owned by the Regional Government there is used for public purposes, such as parks open and some are used for government implementation functions. The assets belonging to the region basically have two functions namely the function services and budgetary functions. The service function is defined as an asset used for meet the needs of the organization in accordance with the main task and function, while the function budgeter means that an asset can be an additional source of PAD through lease, cooperation of utilization, building to hand over, and constructing handover.<sup>1</sup>

Land assets are one source of local revenue. Financial independence region is the ability of local governments to finance their own activities governance, development, and service to the people who have paid local taxes and levies as a necessary source of income.<sup>2</sup>

State property owned by the state is a wealth inherent to the right of state property (private domain). It is the right to "own" a good or service. The separated state assets can be government investments in

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<sup>1</sup> Agung Krisindarto, "Pengelolaan Aset Tanah Milik Pemerintah Kota Semarang." *Jurnal Pembangunan Wilayah dan Kota* 8, No. 4 (2012): 403-411; Sugeng Riyono, "Pemanfaatan Aset Daerah (Studi tentang pola kemitraan asset tanah Pemerintah Provinsi Jawa Timur)." *DIA: Jurnal Administrasi Publik* 11, No. 2 (2013).

<sup>2</sup> Teti Tri Atikasari, and Nur Handayani. "Dampak Revaluasi Aset Tetap Terhadap Pajak Penghasilan Yang Terhutang." *Jurnal Ilmu dan Riset Akuntansi (JIRA)* 6, No. 8 (2017); Adelia Shabrina Prameka, "Kontribusi Pajak Daerah dan Retribusi Daerah Terhadap Pendapatan Asli Daerah (PAD) Kabupaten Malang (Studi pada Dinas Pendapatan Pengelolaan Keuangan dan Aset Kabupaten Malang)", *Thesis*. (Malang: Universitas Brawijaya, 2013).

BUMN and other government investments. While the state property is controlled (not separated) in the form of State / Region Property which is the whole of goods derived from the State / Regional Budget or Expenditure or other legitimate acquisition. State-administered wealth is a wealth inherent in the mandate of law or the authority of the state to manage and utilize such wealth as great as the prosperity of the people and is a public domain.

Within the conceptual framework of Government Accounting (PP No. 71 of 2010) which defines a broader asset, that is, as an economic resource controlled and or owned by a government as a result of past events and gained economic benefits by both government and society, as well as measurable in units of currency, including non-financial resources used for the provision of services to communities and resources with historical and cultural value.<sup>3</sup>

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<sup>3</sup> Fitria Ayu Lestari Niu, Herman Karamoy, and Steven Tangkuman. "Analisis Penerapan PP. No. 71 Tahun 2010 dalam Penyajian Laporan Keuangan Dinas Pendapatan Pengelolaan Keuangan dan Aset Daerah Kota Kotamobagu." *Jurnal EMBA: Jurnal Riset Ekonomi, Manajemen, Bisnis dan Akuntansi* 2, No. 4 (2014). In the same context, it is also emphasized that a study for the World Bank conducted by Kaganova and Nayyar-Stone (2000) explains that local governments in almost all countries have significant amounts of public assets (government assets). According to this research, many local governments in developing countries do not have much awareness that public assets are a portfolio that should be managed properly because they can provide direct benefits, namely efficiency on a limited budget and potential revenue from asset utilization. Kaganova and McKellar (2006) assert that many local governments around the world are the owners of the largest assets in terms of quantity and value compared to any institution or corporation in their respective regions. Departing from these basic facts, it is necessary for the participation of the community not to underestimate the issue of government assets. See Olga Kaganova, *Managing Government Property Assets: International Experiences*. (Washington DC: The Urban Insitute, 2006); Olga Kaganova, and Ritu Nayyar-Stone. "Municipal real property asset management: An overview

Back to the scope of the state's wealth, the definition of resources in the concept is in accordance with the term of state property owned. That is the wealth of which is included in the form of biological and non-biological, tangible or not, whether moving or not moving, which may amount to millions of trillions of Rupiah and has the potential to prosper the people of Indonesia.

From these comparisons, the term asset is generally broader than BMN. In addition, the term asset is almost the same as the term of state property commonly used in the practice of state administration, further the term BMN itself is part of the state assets that should be managed and used as development capital for the size of the people's prosperity. Land is one of the most vulnerable state assets in its absence, the land of one of the major aspects of state assets, its vital functions must be optimally optimized.

In Kabupaten Semarang there is still a lot of potential agricultural land that is not optimally maximized. In some cases, the land has not yet been licensed in the use of land as agriculture. For example, as happened in Ungaran area, based on kompas.com online news in March 2014 many farmers demanded the redistribution of state land area of 192 hectares on the slopes of Mount Ungaran. The claim even occurred since 2000 to get the right to use.

The demand for land for development is so strong, while the land area is not increased or limited. So far, agricultural land has a low value compared to other land use (non-agricultural), consequently agricultural land continues will constantly experience land conversion to nonagriculture. Though agricultural land (rice field) in addition to having economic value as a buffer for food needs, as well

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of world experience, trends and financial implications." *Journal of Real Estate Portfolio Management* 6, No. 4 (2000): 307-326.

ecological functions such as regulating water, carbon sequestration in the air and so on.<sup>4</sup>

Conversion of agricultural land as described above is a phenomenon which can not be avoided for big cities like Semarang City. Semarang is a big city as well as the capital of Central Java Province. By therefore, the city of Semarang became the urbanization destination of the surrounding cities. This matter urged the process of land use change on the outskirts of Semarang City agriculture to non agriculture.<sup>5</sup> The land is actually already controlled by the farmers, but has not been granted permission in the right to use business because the process of submission to the National Land Agency was hit by the absence of recommendations from the Regent of Semarang. Whereas the Farmers have a good intention each year to pay taxes. Agricultural activities is a good activity for the survival of a country, in addition to running the economy, the state food supply is also sufficient if agriculture in Indonesia functioned optimally.

The transfer of land from agricultural land to non-agricultural land is a problem, in addition to significant population growth and the development of the age that forces the switching function of an agricultural land can not be resisted.

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<sup>4</sup> Nurma Kumala Dewi, and Iwan Rudiarto. "Identifikasi alih fungsi lahan pertanian dan kondisi sosial ekonomi masyarakat daerah pinggiran di Kecamatan Gunungpati Kota Semarang." *Jurnal Wilayah dan Lingkungan* 1, No. 2 (2013): 175-188.

<sup>5</sup> Nurma Kumala Dewi, and Iwan Rudiarto. "Identifikasi alih fungsi lahan pertanian dan kondisi sosial ekonomi masyarakat daerah pinggiran di Kecamatan Gunungpati Kota Semarang." *Jurnal Wilayah dan Lingkungan* 1, No. 2 (2013): 175-188.

## II. METHODS

The type of research used by researchers is sociological or empirical legal research. According to Soekanto (1981: 51) is "*legal research consisting of research on legal identification (not written) and research on the effectiveness of law*". The research approach that researchers use in this thesis is the method of qualitative approach. Approach method is a pattern of scientific thinking in a study. As expressed by Soekanto that "*a scientific activity relating to analysis and conditions that are done methodologically, systematically, and consistently*".<sup>6</sup> Primary data on this study concerning previous research results relating to the management and licensing and conversion of agricultural land, and secondary data: library studies obtained from documentation at research sites, libraries and search results on the internet. Data collection method on this study is literature study or document study (literature study), is research conducted by collecting data through documents written documents, reports, and legislation are closely related to this research. Furethermore, the overall data obtained by both primary and secondary data is processed, then analyzed qualitatively then presented descriptively explaining, describing, and describing the problems closely related to this research. In this study to test the validity of data, researchers used triangulation of sources. Triangulation of sources used to compare is not the whole, but researchers only compare the results of previous research. Validity of data is applied in order to prove the findings on books as well as other sources. The validity of the data is done by examining its credibility using triangulation technique.

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<sup>6</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum*. (Jakarta: UI Press, 1986).

### III. LAND ASSETS & ITS MANAGEMENT BY THE STATE

The independent and sovereign state of the Republic of Indonesia since it was proclaimed on 17 August 1945 was set one day later on 18 August 1945 of the 1945 Constitution, in Article 1 Paragraph (1) it was stipulated that "*the state of Indonesia is a unitary State of the Republic*". Manan said that the Unitary State is the cornerstone of the content of the definition of autonomy. On the basis of the boundary, rules are given which govern mechanisms that will manifest a balance between the demands of unity and the demands of autonomy. Here also the possibility of spanning arising from the condition of attraction between the two tendencies.<sup>7</sup>

This is affirmed in Article 18 Paragraph (1) of the 1945 Constitution that the Unitary State of the Republic of Indonesia is divided into provincial and provincial regions divided into districts and municipalities, where each province, district, and city have local government, which regulated by law. This is further reinforced in Article 1 Sub-Article 2 of Law Number 23 Year 2014 on Regional Government.

To be able to answer research questions, the analysis in this study is divided into 4 analysis, namely: (1) Analysis of the management cycle

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<sup>7</sup> Bagir Manan, and Susi Dwi Harijanti. "Artikel Kehormatan: Konstitusi dan Hak Asasi Manusia." *Padjadjaran Journal of Law* 3, No. 3 (2016): 448-467; Bagir Manan, Ali Abdurahman, and Mei Susanto. "Pembangunan Hukum Nasional Yang Religius: Konsepsi dan Tantangan dalam Negara Berdasarkan Pancasila." *Jurnal Bina Mulia Hukum* 5, No. 2 (2021): 176-195; Abdul Kholiq Azhari, and Abul Haris Suryo Negoro. *Desentralisasi dan Otonomi Daerah di Negara Kesatuan Republik Indonesia*. (Malang: Intrans Publishing, 2019); Sri Nur Hari Susanto, "Desentralisasi Asimetris dalam Konteks Negara Kesatuan." *Administrative Law and Governance Journal* 2, No. 4 (2019): 631-639.

of land assets; (2) Analysis of the actors' understanding management of land assets; (3) Analysis of the contribution of land assets to City revenue Semarang, and (4) Management of Land Assets owned by Semarang City Government. Related analysis the cycle of asset management of Semarang City Government is done based on document review on the stages in the asset management cycle in Semarang City Government and interviews with a steward on several SKPD and interviews with the DPKAD Asset Section as a maid of the local goods manager.

The results of the analysis that has been done on asset management cycles obtained several things which affects less than optimal asset contribution to revenue Semarang City, among others:

1. Implementation of management is not in accordance with ideal conditions. Implementation of management that is not in accordance with ideal conditions because it is weakness in terms of policy. The policies here are implemented by top managers and middle managers and first level managers only implement the policy of manager on it.
2. Implementation of the utilization stage is not optimal. Semarang City Government has done the asset utilization in the presence of four form of utilization but there is no Perda or Perwali that specifically set about Asset Optimization.
3. Weakness in terms of carers The reluctance of the staff in each SKPD to become a steward and often there was a change of caretaker.
4. Weaknesses in terms of management functions. There is a lack of planning and organizing. Weaknesses in terms of planning in the stage of the asset management cycle is the stage of needs planning and budgeting, while in terms of organizing is at the

stage of Acceptance, Storage and Distribution, and Security and Maintenance Stage.

The second analysis is the analysis of the understanding of the asset management actors. This analysis is done to understand how each asset management actor understands asset management conducted in Semarang City by using variable based on the asset management cycle consisting of five stages namely: (1) asset inventory; (2) legal audit; (3) asset valuation; (4) asset optimization, and (5) supervision and control (asset management information system)<sup>8</sup>. The results show that in general there is not very different understanding between first level managers, medium, and top managers of the statements in each variable. Difference understanding between executive managers (first level management and management medium) with top managers occurring in 3 statements. In 2 statements namely: 1) related to the inventory of land assets assisted by appraisal; 2) asset utilization in SKPD, shows that the management of the implementer has the understanding that both of these things not too important and not implemented optimally (Quadrant IV) while the manager the peak assumes that both are very important and the performance of management implementers need to be improved. While on the statement of supervision and control over assets have been implemented well and periodically, implementing management has implemented well, but to top managers it is not a concern. Results of analysis also shows that the understanding of the three levels of managers against asset optimization variables considered not to

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<sup>8</sup> Aras Aira, "Peran manajemen aset dalam pembangunan daerah." *Kutubkhanah* 17, No. 1 (2014): 21-39; Hitapriya Suprayitno, and Ria Asih Aryani Soemitro. "Reflection on basic view of public infrastructure for infrastructure asset management in Indonesia." *Jurnal Manajemen Aset Infrastruktur & Fasilitas* 3, No. 1 (2019).

affect performance over asset management and is considered not too important to implement.

The third analysis is the analysis of the contribution of assets to the revenue of Semarang City. This analysis is conducted with the aim to see how far the financial ability Semarang City Government to finance the development in Semarang City with see the potential of the region's original revenues including income from its assets owned by Semarang City Government. The analysis results show that the level the financial capacity of Semarang City Government in 2009 is equal to 24.84% and the financial capability of Semarang City Government included in the category very low. Pattern of relationship between Semarang City Government and Central Government still instructive, where in Harsey and Blanchard's opinion <sup>9</sup> in Halim Semarang City Government is unable to implement regional autonomy. But in the year 2010 and 2011 there is an increase in the ratio of independence to 25.32% and 34.03% so there is an increase from initially instructive to consultative.

The results of the analysis also show that the acceptance of asset management in 2010 has reached 20.97% of PAD, but when compared with the TPD of 4.21%. On In 2011 there was an increase in asset revenues by value of Rp 68,794,652,330 to Rp. 79.849.697.615. But the increase in acceptance is not comparable with percentage increase to PAD, where a percentage decrease from 20.97% (in 2010) to 15.31% (in 2011) and a decrease in the percentage of asset receipts TPD of which from 4.21% (in 2010) to 3.89% (in 2011). This is in line with

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<sup>9</sup> Ronald K. Hambleton, and Ray Gumpert. "The validity of Hersey and Blanchard's theory of leader effectiveness." *Group & Organization Studies* 7, No. 2 (1982): 225-242; Paul Hersey, Kenneth H. Blanchard, and Walter E. Natemeyer. "Situational leadership, perception, and the impact of power." *Group & Organization Studies* 4, No. 4 (1979): 418-428.

opinion from Halim that there are four issues in financial management and regional income, among others: 1) problems of utilization of local revenue sources; 2) the problem of measuring the potential of local revenue sources; 3) excavation issues and the collection of local taxes, and 4) the problem of administrating local revenue (systems and organizations).<sup>10</sup>

The fourth analysis is the management of land assets owned by Semarang City Government. This analysis is done by descriptive quantitative method by connecting analysis on 3 (three) previous analyzes ie asset management cycle analysis, analysis understanding of actors, and analysis of the contribution of land assets to regional revenues. Results analysis shows that the main cause of not yet optimal contribution of assets to Semarang City's revenue is caused by "*Implementation in the management cycle assets of Semarang City that are not yet optimal*". Based on the results of the analysis, it is necessary an effort to improve the performance of the actors and the management of City Government's assets Semarang. Efforts that can be done is the optimization of assets.

#### IV. CONCLUSION

This study concluded that Semarang City Government has inventoried all the land owned by Semarang City Government and inputted in local goods management system or SIMBADDA. Semarang City Government has conducted an assessment of assets owned land using an external appraiser that is the Office of Public Appraisal Services and inputted in SIMBADDA. However, data from the DPKAD Asset Sector shows some assets that have not worth.

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<sup>10</sup> Abdul Halim, *Akuntansi Keuangan Daerah*. (Jakarta: Penerbit Salemba, 2013).

From the results of further information is known that the land assets are not yet valuable mostly public parks residing in the housing built by real estate developers. Semarang City Government does not yet have a list of potential land assets and assets land that has no potential. The Municipal Government of Semarang has prepared the Master Plan for Economic Development (RIPE). One strategy set out in RIPE includes optimization management of local asset management prioritized on the availability of asset data accurate and secure local assets and enhance asset management cooperation. The City Government of Semarang has not yet had a special law on optimization asset.

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## COMPETING INTERESTS

The Authors declared that they have no competing interests.

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