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COMPLEXITY OF LAND PROCUREMENT PROBLEMS SPORT CENTER IN NORTH SUMATRA PROVINCE

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ABSTRACT

Since the Basic Agrarian Law (Law Number 5 of 1960) was enacted on September 24, 1960, it is expressly stipulated in Article 6 that land rights have social functions and this has become one of the principles in Indonesian Agrarian Law. Social functions are not only targeted at property rights, but all land rights, both private and public, as well as land rights must be devoted to the greatest prosperity of the people in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution, and must be willing to give in taken by the State) if the public interest so desires.Theoretically, the social function of land is better known as originating from a State that adheres to a socialist notion which generally in its state constitution stipulates that all land parcels are managed by the State for the greatest prosperity of the people, meaning that land is recognized as common property of the people whose management is given to the State.

Keywords:
Complexity
Nort Sumatra
pemasaran Produk secara Online

1. INTRODUCTION

Even though our Agrarian Law is called socialist in character, which prioritizes the function of land being used for the greatest prosperity of all the people, it does not negate private rights with the State as it pleases or treats people's land ownership rights in the name of social functions without following the rule of law, with In other words, the denial of people's land rights because they are needed by the State must be carried out through a legal mechanism.

Likewise, for example, we have heard of the revocation of land rights (Law Number 20 of 1961), but if the people's land is to be taken for the public interest (forced efforts from the state) it is still determined that compensation must be given to the land owner. This means that someone's property rights are still recognized and valued for their existence to support their owners, but if the land is needed for a larger (general) interest, it must be prioritized as long as compensation is given according to the provisions of the law.

The prioritization of the public interest over the private interest in matters relating to the need for land is carried out through the institution of revocation of rights, land acquisition or land acquisition. The intended public interest is the interest of the nation, state and society which must be realized by the government and used as much as possible

for the prosperity of the people.[1] One of the public interests is the development of sports infrastructure by the Government/Regional Government.[2] Specifically in North Sumatra Province, there is a plan to develop an integrated Deli sports area (Sport Center) covering an area of 300 hectares located in Sena Village, Batangkuis District, Deli Serdang Regency whose land provision is carried out through land acquisition.

However, in the process of implementing the land acquisition, various legal problems and problems related to other parties were encountered. For this reason, the problems raised in this paper; 1) how is the complexity of the land acquisition problem for the construction of the North Sumatra sports center and 2) how is the pattern of handling it. The scope of this paper is only regarding the implementation of the land acquisition for the sports center with various problems that surround it, due to the fact that until now it has not been resolved and there are still parties who dispute it, either through lawsuits to court or complaints to various parties.

The preparation of this paper was carried out using normative legal research, namely legal research carried out by examining library materials or secondary data, [3] with qualitative data analysis by providing a description (description) in words of the data findings. In this study also used the theory of dispute resolution by coercion (coercion) proposed by Laura Nader and Harry F Todd Jr., in which one party imposes a solution to the problem on the other party.[4]This is based on the idea that revocation of rights, land acquisition or land acquisition is basically a forced action from the State to meet the need for land for the public interest, but with the regulation of land acquisition in the law (UU No. the force remains in the context of law enforcement with the fulfillment of three elements; legal certainty, expediency and justice.[5]

2. History and Norms of Land Acquisition

The revocation of rights, acquisition or land acquisition itself has been going on for a long time in accordance with the demands of the times and following the interests of the rulers of his time with the application of various laws and regulations. In its history, especially since independence, this land acquisition norm was first issued by Law Number 23 Prp. 1959 concerning Land Acquisition for the Purposes of Warlords Based on the Danger Situation Act, only this provision is for security and defense purposes only. Then the generally accepted norms in connection with the enactment of Law Number 5 of 1960 concerning Basic Provisions on Agrarian Principles, are regulated on the revocation of land rights in Article 18 and the statutory provisions for their implementation are regulated in Law Number 20 of 1961 concerning Revocation of Land Rights. In the revocation of land rights version of Law Number 20 of 1961, there are several principles, including:

1) There is an urgency to take action that is forced by the Government;
2) It is really the public interest that requires that personal interests be sacrificed;

[1] Article 1 point 6 of Law Number 2 of 2012.
[2] Article 10 letter q of Law Number 2 of 2012
[3]Soerjono Soekanto and Sri Mamuji, Normative Legal Research A Brief Overview, RajaGrafindo Persada, Jakarta, 2010, p. 13-14.
[4]According to Laura Nader and Harry F Todd Jr, there are seven ways of resolving disputes in society, namely; 1) lumping it (leave it alone); 2) avoidance (dodge); 3) coercion (coercion); 4) negotiation (negotiations); 5) mediation (mediation); 6) arbitration and 7) adjudication (Laura Nader and Harry F Todd Jr, The Disputing Process Law in Ten Societise, Columbia University Press, New York, 1978, pp. 9-11.
[5]Sudikno Mertokusumo, Concerning the Law of an Introduction, New Script, Jakarta, 1979, p. 11

3) There are recommendations/considerations from the Regional Head, the Minister of Agrarian Affairs, the Minister of Justice and the minister concerned;
4) Compensation for the land owner concerned is calculated by the Appraisal Committee
5) The revocation of rights must be by Presidential Decree;
6) Given the opportunity to appeal the determination of the estimated land compensation to the High Court; and
7) Announced in the State Gazette and newspapers.

In its implementation, it turns out that the provisions of Law Number 20 of 1961 are not easy to apply in the field, because they have to go through a long procedure accompanied by recommendations from the Minister of Agrarian Affairs, the Minister of Justice and the Minister concerned. in the State Gazette. Historically, the revocation of rights by using Law No. 20 of 1961 was only carried out once, namely Presidential Decree No. 2 of 1970 dated January 6, 1970 of the area in Tamansari Sub-district which is famous for the Yen Pin complex.[6] Due to the difficulty of implementing the Law, while the need for land is urgent, especially in the context of carrying out development including in the context of providing facilities to investors in connection with the implementation of an open door for investors since the enactment of Law Number 1 of 1967 concerning Investment, the Government issued a Ministerial Regulation Domestic Affairs Number 15 of 1975. In this regulation, the term used is "land acquisition", meaning to release the legal relationship that originally existed between the holders of rights/rulers over their land by providing compensation.[7]

Furthermore, the Minister of Home Affairs Regulation Number 2 of 1985 was issued again, namely special provisions for land objects to be acquired which are less than 5 (five) hectares, the land acquisition is sufficient to be carried out by the Head of the Prosecutor and the local Camat. In practice, it turns out that land acquisition tends to be misused, both in terms of the purpose of land acquisition and the determination of compensation, even in practice it is not uncommon for government intervention through land acquisition committees to allow the private sector to use the same land acquisition program as the government, nor does it reluctant to use security forces in land acquisition for "development" purposes, so that the private sector can acquire land at a price below the average as determined by the land acquisition committee.[8]

Based on this fact and the many pressures on the Government to improve the rules for land acquisition, Presidential Decree No. 55 of 1993 was issued concerning Land Procurement for the Implementation of Development in the Public Interest. In this case, the term "land acquisition" is buried and what appears is the term "land acquisition". The definition of "land acquisition" is any activity to obtain land by providing compensation to those entitled to the land, and public interest is defined as the interest of all levels of society.

[6]AP. Parlindungan, Revocation and Acquisition of Land Rights A Comparative Study, CV. Mandar Maju, Bandung, 1994, p. 32

[7] Simultaneously, the Minister of Home Affairs Regulation No. 2/1976 on the Use of Land Acquisition Programs for Private Interests was also issued.

[8]Endang Suhendar and Ifdal Kasim, Land as a Commodity, A Critical Study of the New Order's Land Policy, ELSAM Publisher, Jakarta, 1996, p. 58-59

In order to meet the development of the times and the demands of the community, a new provision was made regarding land acquisition for the public interest in the form of Presidential Regulation Number 36 of 2005 dated May 3, 2005 concerning Land Procurement for the Implementation of Development in the Public Interest, lastly enhanced by Presidential Regulation Number 65 of 2006 dated 5 June 2006.

The issuance of regulations regarding land acquisition has always been criticized, including when the Presidential Regulations No. 36 of 2005 and No. 65 of 2006, for example, were issued on May 17, 2006, thousands of farmers from various regions in Indonesia surrounded the Merdeka Palace in Jakarta by holding demonstrations, one of which was his demands were to reject Presidential Regulation No. 36 of 2005 including its revision.[9]

Presidential Regulation No. 65/2006 also received rejection from various groups, most recently the Coalition of NGOs including YLBHI, LBH Jakarta, PBHI, KPA, Walhi and FPSI voiced their rejection of the Presidential Regulation on the grounds that the regulation favors investors.[10] . In this case, a review of the regulation is requested, not only in the form of a Presidential Regulation but must be included in the law because the substance of the provision should be contained in the law, so that the interests of all parties are protected and can be accounted for before the law. This hope was finally realized with the issuance of Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest, which was set on January 14, 2012, followed by its implementing regulations, and then amended several articles in Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 19 of 2021 has been issued and followed by Regulation of the Minister of Agrarian Affairs/Head of BPN Number 19 of 2021 as a technical regulation for its implementation.

3. Application of Social Function

As mentioned above, every land right in the country has a social function. The definition of the social function of land rights is that any land rights that exist in a person cannot be justified that the land will be used (or not used) solely for his personal interests, especially if it causes harm to the community. The use of land must be adapted to its conditions and the nature of its rights so that it is beneficial for both the welfare and happiness of those who own it as well as for the benefit of the community and the state.

Meanwhile, AP Parlindungan defines the social function of land rights as a way of compromise between the absolute rights of land owned by a person and a system of public interest rather than land and social obligations. The need for land is not permitted solely for personal interests, its use must be adjusted to the circumstances and the nature of the rights so that it is beneficial for the welfare and happiness of those who have and is good and beneficial for the community and the interests of the state.[11]

The social function of land rights, apart from being explicitly regulated in Article 6 of the LoGA, is also actually implied from Article 33 paragraph (3) of the 1945 Constitution which states that the earth, water and natural resources contained therein are controlled

[9] Kompas Daily, issue 18/5/2005
[10] Kompas Daily, issue 28/6/2006
[11]? AP Parlindungan, Commentary on the Basic Agrarian Law, CV Mandar Maju, Bandung, 1998, p. 66

by the State and used for the greatest prosperity. the people, meaning that the use of land must be aimed at the greatest prosperity of the people and should not be allowed to harm the interests of the community. In this case, the provision does not mean that individual interests will be totally suppressed by the interests of the community. but the interests of the community and individual interests must balance each other, so that in the end the main objectives of land management will be achieved, namely prosperity, justice and happiness for the people as a whole. Therefore it is fitting that the land must be used and maintained properly so that it increases its fertility and prevents its damage. Maintaining land and preventing its damage is an obligation for everyone who owns land (Article 15 of the LoGA). In subsequent land policies, social functions are described in land reform provisions, such as every land owner must work on his own land (Article 10 of the LoGA) and cannot be abandoned because it can cause his land rights to be nullified (Articles 27, 34 and 40 of the LoGA), prohibition land tenure exceeds the limit (Articles 7 and 17 UUPA) Number 56 Prp. 1960) and the provisions on absentee land or a prohibition on owning agricultural land outside the sub-district where the land is located (Law No. 56 Prp. 1961 jo. PP No. 224 of 1961) which basically aims for the land to be used optimally, not harming the interests of the community and bringing prosperity for its owners, society at large and the State.

Because the purpose of the social function of land rights is to achieve the welfare of the land owners themselves and also the common welfare, so that they are required to continue to cultivate and maintain their sustainability, then any action that is contrary to the social function such as destroying soil fertility or polluting the soil can be subject to sanctions. law. (Article 15 jo. 52 UUPA). However, the most important thing in the implementation of these social functions is in the context of providing land by the government for the public interest, the procedure is through the land acquisition agency. back down. The construction of a sports center in North Sumatra has become an important and strategic program for the North Sumatra Provincial Government, because it aims to provide a forum that is able to become a center for sports activities as well as a center for education, coaching and training and can even be a recreational facility that can support the quality, capabilities and mentality of athletes and the people of North Sumatra.

In addition, the sports center will also be able to support North Sumatra's development programs in terms of implementing national and international events, and in the short term, in order to support North Sumatra as the host of the National Sports Week (PON) in 2024. In addition, the declaration of the construction of the sports center as described in the planning document is in line with Government Regulation Number 13 of 2017 concerning Amendments to Government Regulation Number 26 of 2008 concerning National Spatial Planning, also in accordance with Regional Regulation of North Sumatra Province Number 2 of 2016 challenge the Provincial Spatial Plan for 2016-2036 and coincide with Presidential Regulation Number 62 of 2011 concerning Spatial Planning for Medan, Binjai, Deli Serdang and Karo Urban Areas.

The construction of this sports center is used as an object of land acquisition because it is indeed possible in Law Number 2 of 2012, by taking the location in the administrative area of Sena Village, Batangkuis District, Deli Serdang Regency, with a land area of 300 Ha, while the land owner is PT. Nusatara-II Plantation with Cultivation Right status which was issued based on the Decree of the Head of BPN Number 10/HGU/BPN/2004 dated 26 February 2004. Funding for the land acquisition and construction of the sports center is

sourced from the APBN and APBD and is possible from BUMN funds, and it is designed to build venues for branch needs by the main sports, namely football stadiums, athletics, archery, motorcycle racing, bicycle veledrome, BMX circuits, stadiums. outdoor hockey, swimming pool, Squash GOR, petanque GOR, Karete GOR, tennis court complex, softball/baseball stadium, indoor volleyball GOR, bowling alley, athlete hotel, mosque, supermall and housing/apartments are also provided. modern. Therefore, the construction of a sports center that is intended for the interests of the nation and state as well as the general public with funds from the government and the implementation is the local government, so it is appropriate for the public interest and the application of the principle of social function by providing land through land acquisition procedures.

4. Land Acquisition Implementation

As regulated in Article 13 of Law Number 2 of 2012, the implementation of land acquisition consists of 4 stages, namely planning, preparation, implementation and delivery of results. The planning stages of land acquisition for the sports center are carried out by agencies that require land, in this case the Provincial Government of North Sumatra cq. The Department of Youth and Sports, by first conducting a feasibility study and conformity with spatial planning, the product of this activity is in the form of a Land Acquisition Planning Document which was made in September 2019. The preparatory stage is carried out by the Governor of North Sumatra by making a Location Determination Decision after notification of the development plan and initial data collection as well as public consultation to the land owners and affected community members around the land acquisition object. The location determination was issued by the Decree of the Governor of North Sumatra Number 1888.44/KPTS/2019 dated November 11, 2019 regarding the Determination of Land Acquisition Locations for the Development of the Integrated Sports Center Sport Center in Sena Village, Batangkuis District, Deli Serdang Regency, North Sumatra Province.

At the implementation stage, it is organized by the land agency, namely the Regional Office of the National Land Agency of North Sumatra Province. For the initial stage since the decision to determine the location was received, the Head of the Regional Office of the BPN of North Sumatra Province issued the Decree of the Land Acquisition Implementation Committee Number 332/KEP-12/XI/2019 dated November 18, 2019, at the same time appointing a Task Force (Satgas A) and Task Force B at the Office Deli Serdang Regency Land Affairs together with related agencies. Task Forces A and B conducted an inventory and identification by examining the condition of the land parcels and objects on them as well as those who are entitled to or own the land, buildings and plants in the location. center area of 300 hectares is part of the land rights to cultivate (HGU) PT. Perkebunan Nusantara-II (PTPN-II) Batangkuis/Sena Plantation whose rights were granted based on the Decree of the Head of BPN Number 10/HGU/BPN/2010 dated 6 February 2004 and have been registered and paid for by the BPHTB in 2014, the period of which the rights are valid until 2039, but the Land Use Office of Deli Serdang Regency has not yet issued a certificate of Cultivation Right.

On the HGU land, Task Force A and B also obtained data, namely that there have been buildings and plants belonging to the community since 2013, which in the early stages there were 333 people/plot, the next stage was obtained as many as 74 people and 134 people, and there are still some fields that cannot be recorded. Then the nominative list

and map of the land parcels are announced and submitted to the Office of Public Appraisal Services (KJPP) which is appointed by the agency requiring the land and determined by KJPP YANUAR BEY and REKAN by Decree of the Regional Head of the National Land Agency of North Sumatra Province as well as the Chair of the Land Procurement Implementation Committee (P2T) Number 351/KEP-12/XII/2019 dated December 3, 2019.

Task Forces A and B first conduct an inventory and identification of the land because the owner of the land is only 1 (one) legal entity, namely PTPN-II as the holder of the Right to Cultivate. Then a deliberation was held with PTPN-II on December 26, 2019 according to the invitation letter for deliberation Number 3322.2/15-12.500/XII/2019 dated December 23, 2019 and it was agreed that the form of compensation for the land was in the form of money as the result of the KJPP assessment, but only compensation will be given. losses in 2020 according to the budget provided by the North Sumatra Provincial Government. Up to the stage of deliberation on the land, the land acquisition stage is still ongoing as planned, in addition simultaneously, Task Forces A and B carry out an inventory and identification of the buildings and plants that are on the HGU land, it turns out that the buildings and plants do not belong to PTPN -II but owned by residents who in the early stages contained 330 people (originally on the land was an oil palm plantation belonging to PTPN-II which was allegedly deliberately cut down by other parties). In accordance with the availability of land acquisition funds, it turns out that the funds can only be accommodated in the North Sumatra Provincial APBD for the 2020 fiscal year.

5. Land Problems

After the funds are available in the APBD in early 2020, when the North Sumatra Provincial Government will provide compensation for their land to PTPN-II, information is received from the Deli Serdang Regency Land Office according to letter Number AT.02.01/145.12.07/ I/2020 dated January 28, 2020 which stated that on the land there were civil cases filed by as many as 54 community members as Plaintiffs against PTPN-II as Defendants and there was a decision from the Lubukpakam District Court with case register Number 11/Pdt.G/ 2016/PN-Lbp dated January 30, 2017 jo. Medan High Court Decision Number 104/Pdt/2018/PT-Mdn dated 15 May 2018 jo. Decision of the Supreme Court of the Republic of Indonesia Number 2435.K/Pdt/2019 dated September 9, 2019, After receiving information about the lawsuit, the Land Procurement Implementation Committee held a discussion meeting on February 5, 2020 at the BPN Regional Office of North Sumatra Province, with the conclusions:

a. The Deli Serdang Regency Land Office wrote to the Sena Village Head to question the truth of the Garapan SKT which was used as the basis for the Plaintiffs in the civil case Number 11/Pdt.G/2016/PN-Lbp;
b. The Head of the Land Office of Deli Serdang Regency will examine the truth of the case and make a report to the Head of Land Procurement Executive/Kakanwil BPN North Sumatra Province.

As a follow-up, the Head of the BPN Regional Office of North Sumatra Province has written to the Deli Serdang Regency Land Office with Number BP.02.02/474-12/II/2020 dated February 5, 2020, then the Head of the Deli Serdang Regency Land Office has written to the Sena Village Head with letter Number AT 02.01/304-12.07/II/2020 dated 6 February 2020, the next Sena Village Head replied with a letter Number 141/89/SN/II/2020 dated 7 February 2020 which basically stated:

a) SKT Garapan which is attached to the data of all Plaintiffs is not registered in the Register of the Sena Village Office;
b) The code for letter numbering in the Plaintiff's data is different from the Sena Village code (in Sena Village the code is "SN", not "DS");

Previously, Task Force A and Task Force B of the Land Acquisition Implementation Committee had carried out an inventory and identification in the field and the results were stated in the Nominative List Number 02/PPTDS/XII/2019 dated December 2, 2019 and carried out research back into the field by the Chair of Task Force B, a member of Task Force A. and the Head of the Sena Village Government with the Minutes of the Field Inspection dated January 30, 2020, which resulted in the finding that the names of the Plaintiffs in case Number 11/Pdt.G/2016/PN-Lbp were not found in the field and there was no evidence of physical control in the field. by the plaintiffs.

Then the BPN Regional Office has been summoned for a meeting at the Jakarta Bappenas Office in accordance with the invitation letter from the Director of Spatial Planning and Land Number 01889/Dt.2.1/02/2020 dated 12 February 2020 for a request for legal protection from the Plaintiffs SUYARTONO et al. the land of the case and the basis of the lawsuit as well as the efforts of BPN / PTPN-II which will conduct a review and include the problem as the target object of the Integrated Land Mafia Prevention and Eradication Team which has been exposed at the Ministry of ATR / BPN together with the Criminal Investigation Police of the National Police and approved to be the attention in handling it. Even though there are still problems, especially the civil case, in the context of providing compensation for the land acquisition for the construction of the sports center, the PTPN-II Board of Directors made a fact of integrity (letter of undertaking) on 18 February 2020, declared full responsibility both civilly and criminally. if the statement is not in accordance with the actual facts, including the community's lawsuit on the 300 Ha land which will be transferred to the North Sumatra Provincial Government and is fully responsible for resolving existing legal problems in accordance with applicable legal provisions and guaranteeing the write-off and transfer of the land to the Government North Sumatra Province will be able to carry out as it should.

With regard to the alleged forgery and use of Garapan's SKT as the basis for a lawsuit to the court, at a meeting on 26 February 2020 at the BPN Regional Office of North Sumatra Province, it was confirmed that as a follow-up, the inclusion of the problem became one of the objects of the integrated Team for the Prevention and Eradication of Land Mafia. In 2020, PTPN-II has been asked to make a complaint report to the North Sumatra Police. PTPN-II has followed up by making a complaint report to the North Sumatra Police with a Police Report Receipt Letter Number STTLP/401/II/2020/SUMUT/SPKT "II" dated 27 February 2020 with allegations of criminal acts of forging letters and using fake letters (SKT Garapan), and the investigation stage was followed up by the Ditreskrimum Polda North Sumatra; Then on March 4, 2020, another meeting was held to discuss the issue at the Regional Office of the National Land Agency of North Sumatra Province which was attended by Asdatun Kejatisu, Head of Sub-Directorate 2 of the North Sumatra Police Discriminate, the clerk of the Medan High Court, the Provincial Government and PTPN-II and the Land Procurement Committee and concluded:

a. Formal evidence of SKT Garapan which is used as the basis for a lawsuit that has received a court decision, is not published by the Sena Village Head, so that the object cannot be

ascertained to be on the land for the object of land acquisition for the construction of a sports center;

b. To strengthen the belief of the Land Procurement Committee in the context of the follow-up process for payment of compensation and the attitude of the parties to take legal action for judicial review, it is necessary to review the law on court decisions from the first level to an appeal by the North Sumatra Attorney General's Office.

Furthermore, a field review was carried out on April 1, 2020 which was attended directly by the Head of the Land Procurement Executor/Kakanwil BPN North Sumatra Province, special staff to the Minister of ATR/BPN, PTPN-II and members of the Land Procurement Implementing Committee, which de facto no sign was found. -signs of boundaries and evidence of land cultivation from the plaintiffs on the object of land acquisition for the construction of a sports center, and the land has been cultivated by local residents since 2013 who were not the plaintiffs in the decision of the case, but on the land a notice board was found that read " This land is owned by SUYARTONO, NANANG KUSNAIDI, SUPRIATIK et al as many as 54 people based on the decision of MARI No. 2435.K/PDT/2019 September 9, 2019, which has permanent legal force", Because the legal opinion (legal opinion) from Asdatun Kejatisu on the court decision has not been obtained, a meeting was held at the home of the Governor of North Sumatra on April 2, 2020 which was attended by the Governor of North Sumatra, the Head of the North Sumatra High Prosecutor's Office (Dr. Amir Yanto, SH) , Kakanwil BPN North Sumatra Province, Head of Youth and Sports Office of North Sumatra Province and Directors of PTPN-II and agreed with the following conclusions:

a) The land is a PTPN-II HGU which is still valid until 2039;
b) Land object in civil court decision Number 11/Pdt.G/2016/PN-Lbp dated January 30, 2017 jo. High Court Decision Number 104/Pdt/2018/PT-Mdn dated 15 May 2018 jo. The decision of the Supreme Court Number 2435.K/Pdt/2019 dated September 9, 2019, is unclear because:
    - The results of field observations do not show clear boundaries and coordinates;
    - There is no control of the Plaintiffs over the object of land acquisition for the construction of a sports center;
    - Since 2013 it has been worked on by people who are not the Plaintiffs;
    - The certificate of arable land is not registered in the village register book, so the location of the land cannot be ascertained.

Based on the analysis of juridical and physical data and a study of material and formal aspects, it was agreed that the implementation of land acquisition for the construction of a sports center could be followed up by providing compensation in accordance with applicable regulations. The provision of compensation for land acquisition for the construction of a sports center for an area of 300 hectares was carried out on April 6, 2020 at the BPN Regional Office of North Sumatra Province from the North Sumatra Provincial Government to the Directors of PTPN-II with a cash value of Rp. 152,951,975,472,- (one hundred and fifty two billion nine hundred fifty one million nine hundred seventy five thousand four hundred and seventy two rupiah). Even though the compensation money has been handed over, there are still many who dispute it, both the land and building

owners, NGOs, law enforcement officers and campus circles,[12]however, because the land acquisition is in the public interest and the national interest, the land acquisition process is still being carried out. Especially for comments from campus circles who consider the provision of compensation for former land. The PTPN-II HGU is categorized as an illegal levy, according to the fact, the land status of the object of the sports center land acquisition is HGU land (not ex-HGU), so that compensation for the land to the rightful party (PTPN-II) is based on law.

7. Problems with Stands.

In accordance with the determination of the location based on the decision of the Governor of North Sumatra Number 1888.44/KPTS/2019 dated November 11, 2019, it is stated that related to cultivators and the people who control the land, it will be inventoried and identified at the stage of land acquisition implementation by the BPN Regional Office as the Head of Land Acquisition. With the separation of land owners from the owners of stands (buildings and plants) at the location of the object of land acquisition for the sport center which will be given separate compensation, it shows that there is a horizontal separation of land (owned by PTPN-II) and stands in the form of plants and buildings (owned by residents/ cultivator). This condition is certainly in accordance with the principle of horizontal separation (horizontale scheiding) in our land law as applicable in customary law, in this case buildings and plants are not part of the land, land rights do not automatically include the ownership of buildings and plants in the area. on it.[13] This is also in line with the provisions in the explanation of Article 40 of Law Number 2 of 2012 that one of the parties entitled to receive compensation is the owner of the building, plant or other object related to the land, in addition to the owner of the land.

The owners of buildings and plants on the land that have been inventoried and identified by Task Force A and B, however there are findings and objections from some of the cultivators that the land is not affected by the land acquisition because it is located in Tumpatan Nibung Village, while the object of the land acquisition is according to the determination of its location in Sena Village. After receiving notification that funds for compensation for plants and buildings are available, according to the Power of Attorney for Budget Users (KPA) of the Youth and Sports Office of the Province of North Sumatra Number 900/1678/DISPORA/2020 dated May 13, 2020, the next stage will be held deliberation with building and plant owners. In order to carry out the deliberation, a preparatory meeting was held in accordance with the invitation letter from the Regional Head of the BPN Province of North Sumatra Number 119/UND-500.BP.02.02/VI/2020 on 18 June 2020 and the meeting was held on 23 June 2020, with the conclusions:

a. Completion of compensation for buildings and plants as many as 333 fields (early stage), can be followed up with deliberation after there is certainty of village administrative

[12]One of the campus circles who disputed the granting of compensation for the HGU land was the Head of the Law Laboratory of the USU Faculty of Law, Dr. Edy Yunara, SH, who said that the compensation made by the provincial government to PTPN-II was indicated as illegal levies because according to him there were no legal regulations and had the potential to be criminal (Kompas Daily, published on January 8, 2020 with the title "The Problem of Compensation for Ex-HGU Land in North Sumatra, Expert : This is Illegal Charges").

[13]Boedi Harsono, Indonesian Agrarian Law, History of the Formation of Basic Agrarian Laws, Content and Implementation, Djambatan Publishers, Jakarta, 2003, p. 20.

boundaries between Sena Village and Tumpatan Nibung which is completed by the Batangkuis Camat.

b. The implementation of deliberation and the provision of compensation is adjusted to the availability of data from the satker (Dispora).

After that, deliberation was held with building and plant owners starting August 6, 2020 at the Batangkuis Sub-district office and Sena Village Office for the initial stage (a total of 333 people/plot of land) by complying with the Health Protocol Procedures for Covid-19 Prevention; At the time when compensation payments were made to the owners of buildings and plants after deliberation, the North Sumatra Province Youth and Sports Office stated that it had not been able to provide compensation because it would ask for a legal opinion (Legal Opinion / LO) first from the North Sumatra High Court, in connection with the opinion that the PTPN-II party should have completed the cultivation on the land as the HGU holder. To obtain an explanation regarding this, a meeting was held at the North Sumatra Dispora Office on August 28, 2020, with the following conclusions:

a. The provincial government will request a legal opinion from the head of the North Sumatra High Court on Tuesday, September 1, 2012.
b. The High Court will provide an answer to the request for a legal opinion.

To make the LO, a coordination meeting was held at the Attorney General's Office with participants from the North Sumatra Police, BPKP, North Sumatra Provincial Inspectorate, BPN Regional Office, Provincial Government / Dispora and PTPN-II and was attended by the KPK virtually on September 17, 2020, with the results including:

a. BPN is of the opinion that the owners of buildings and plants based on the results of the inventory and identification of Task Forces A and B are entitled to compensation in accordance with the provisions of the Elucidation of Article 40 of Law Number 2 of 2012 and Article 17 paragraph (2) and Article 25 of the Presidential Regulation Number 71 of 2012, while other opinions are not entitled because they are cultivators who do not have (illegal) permits and can be categorized as criminal acts and the owners of buildings and plants must be verified materially.
b. BPN is of the opinion that the payment of compensation for plants and buildings is borne by the Provincial Government of North Sumatra in accordance with the provisions of Article 76 paragraph (2) of PP Number 71 of 2012, while other opinions are charged to PTPN-II or can be charged to the Provincial Government but with the provision of compensation through the Presidential Regulation mechanism. Number 62 of 2018 concerning Handling of Community Social Impacts in the Framework of Providing Land for National Development.

Based on a letter from the Head of the North Sumatra High Prosecutor's Office Number B. 7230/L.2/Gph.1/10/2020 dated October 16, 2020, the legal opinions on the matter include:

a. Regarding the procedure for providing compensation for plants and buildings, the in cassu applied is Presidential Regulation Number 71 of 2012.
b. For those who will provide compensation to residents/cultivators of building and plant owners, the Provincial Government of North Sumatra pays compensation to PTPN-II, then PTPN-II processes (hands over) compensation to plant and building owners. PTPN-II as the holder of Hak Guna Usaha is obliged and responsible for emptying it after receiving compensation from the Provincial Government of North Sumatra.

Because there was an objection from PTPN-II to provide compensation to the owners of plants and buildings because there was no mechanism for managing their finances, a Forkopimda coordination meeting was held at the North Sumatra Governor's Office house on November 2, 2020, which agreed:

a. The provision of compensation for the loss of plants and buildings is still carried out by the Provincial Government of North Sumatra and PTPN-II only submits it to the owners of plants and buildings.
b. Parties from the community conveyed to the North Sumatra Police about the alleged inaccuracy of building and plant data in the Nominative Lists of Task Forces A and B and requested that data collection and verification be carried out, which in turn proposed to the Governor to form an Integrated Team that would clarify the data. the cultivator.

As a follow-up to the coordination meeting. The Governor of North Sumatra formed a Data Collection and Verification Team by issuing SK Number 188.44/534/KPTS/2020 on November 4, 2020. In carrying out the data collection on buildings and plants, the Regional Police/Polres, Kodim, BPN, Tarukim Service and Agriculture Service of Deli Serdang Regency were directly led by the Director of Criminal Investigation Unit of the North Sumatra Police.

Starting from November 4 to 20, 2020, led directly by the Direskrimsus Poldasu through a preliminary meeting at the Deli Serdang Police Headquarters, the Data Collection and Verification Team conducted a re-examination by the Command Post at the Sena Village Office and before and after carrying out their duties, field leaders were required to hold an assembly every morning. and afternoon, as well as the results of the work of the Integrated Team obtained the following data:

a. The number of residents' plants/cultivators is 398
b. The number of building residents/cultivators is 272
c. The number of plants and or buildings after synchronization is 403

After that, the results of the work of the Data Collection and Verification Team were handed over to the Head of Task Force A and B of the Deli Serdang Regency Land Office, which was witnessed by the Governor of North Sumatra, Forkopimda, Kakanwil BPN North Sumatra Province and Head of Youth and Sports Office of North Sumatra Province.

With the submission of the results of the work from the Chair of the Integrated Team to the Chair of the Task Forces A and B, it has re-entered the corridor of the land acquisition procedure, then the Chairperson of Task Force A and B followed up by integrating the data in the Integrated Team Working Paper with the data in the previous Nominative List, so as to produce a more accurate Nominative List of Task Forces A and B and become the basis for the next land acquisition process, namely the announcement stage which will be held from November 23 to December 1, 2020.[14] The next procedure was assessed by KJPP from December 2 to 3, 2020, then continued with deliberation on the form of compensation with residents/cultivators from December 7 to 11, 2020 at the Sena Village Head Office. From the results of the deliberation, a response was obtained from residents/cultivators that agreed to compensate for the compensation in the form of money, but 294 people

[14] The time period for the announcement was debated between 14 days or less, but it was determined to be less than 14 days because according to the provisions of Article 29 of Law Number 2 of 2012 it was stated that the announcement was made within a maximum of 14 working days.

were willing to accept the compensation and were immediately given compensation in stages, the remaining 109 people refused to accept compensation. For those who refuse to accept the compensation, the P2T Committee validates the consignment and by the agency that requires land directly registers the consignment to the Lubuk Pakam District Court by paying PNBP according to applicable regulations. However, the court did not immediately decide to accept the deposit of compensation money through its decision, but it was carried out sporadically by summoning one by one the parties entitled to trial and until now not all have been decided to accept the consignment, so that the delivery of the results of the land acquisition has not been carried out.[15]

8. Related to The Case

As described in point 6 above, there is a civil case on the land that is used as the object of land acquisition and has received a court decision Number 11/Pdt.G/2016/PN-Lbp dated January 30, 2017 jo. High Court Decision Number 104/Pdt/2018/PT-Mdn dated 15 May 2018 jo. Supreme Court Decision Number 2435.K/Pdt/2019 dated September 9, 2019 which decided that the cultivators on the 67 Ha land belonged to the cultivators on the basis of SKT Garapan issued by the Sena Village Head. However, because based on data and information from the Sena Village Head that the Garapan SKT was not registered at the village office and also the cultivators did not physically control the plot of land he won, then because there were indications of criminal acts of forgery and involvement of the land mafia, the matter was included as a target for eradicating the land mafia in cooperation between the Regional Office of the National Land Agency and the North Sumatra Police.

Thanks to this collaboration, we succeeded in naming 4 suspects for the criminal act of counterfeiting SKT Garapan, namely 2 village heads (Sena and Tumpatan Nibung) and 2 leaders of the cultivating group, then after rolling to the court, it was decided that the suspects were legally and convincingly proven to have committed the crime of counterfeiting. decision as follows:

a. Case Number 3209/Pid.B/2020/PN-Lbp, March 18, 2020 An. H. EDY ZAKWAN, SE, MM (former Head of Sena Village), sentenced to 8 (eight) months in prison
b. Case Number 3212/Pid.B/2020/PN-Lbp, March 18, 2020 An. NANANG KUSNAEDI (head of the cultivator group in Sena Village), with a prison sentence of 1 (one) year.
c. Case Number 3211/Pid.B/2020/PN-Lbp, March 18, 2020 An. MARADOLI DALIMUNTHE (former Head of Tumpatan Nibung Village), sentenced to 8 (eight) months in prison.
d. Case Number 3210/Pid.B/2020/PN-Lbp, March 18, 2020 An. NURAINI (Head of a group of cultivators in Tumpatan Nibung Village, with a prison sentence of 1 (one) year.

The convicts are known to have not filed an appeal and are serving criminal sentences in accordance with the verdict of the panel of judges. In addition to the criminal case, there are still objections to the determination of the compensation value, namely objections because the land value was not included in the object of compensation assessment by KJPP and also the land claim is in Tumpatan Nibung Village (while the object of land acquisition is in Sena Village). The case was filed by:

[15]Article 48 of Law Number 2 of 2012 stipulates that the delivery of the results of land acquisition can be carried out if the provision of Compensation to the Entitled Party and the Release of Rights have been carried out; and/or compensation has been deposited in the district court.

a. Zulkarnain Nasution et al (famous for the location of the "palace") with case Number 300/Pdt.G/2020/PN.Lbp which turned out to be won by the objecting party and currently the Head of Regional Office and the Provincial Government as the Defendants are making cassation efforts.
b. Yan Rosa Lubis (famous for the location of Ayam Penyet Jakarta (APJ)), with case Number 39/Pdt.G/2021/Pn.Lbp, and the party who objected was defeated by the court.

Against the two parties who raised the objection, the Regional Office of the National Land Agency and the North Sumatra Police will make the case as a target for land crimes in 2021 with the Provincial Government as the reporter because there are indications of falsification of the rights base in the form of a Land Certificate (SKT) issued by the Regent of Deli Serdang. In the future, the dynamics of land acquisition for the sports center will continue, both in the handling of the criminal case for counterfeiting the rights by the party who filed an objection to the court, as well as regarding the follow-up to the deposit of compensation (consignment) at the Lubuk Pakan District Court, whose receipts are still jammed through the decision so that the results of the land acquisition cannot be submitted from the Land Procurement Implementation Committee to the North Sumatra Provincial Government.

9. Conclusion

Based on the description above, using an analytical knife with the theory of dispute resolution by coercion (coercion) is seen in the implementation of the procurement and for that it can be concluded the following things:

1. There are problems with land acquisition for the North Sumatra sports center, namely regarding the certainty of the status of the land (still disputed in the judiciary, the existence of community cultivation activities on land owned by PTPN-II who are not all willing to accept compensation for the stands, the existence of criminal actions for making pedestals). rights that have been decided by the court and problems with village administrative boundaries), as well as allegations of inaccurate data on cultivators submitted by community members so that an Integrated Team is formed to verify the data;
2. The pattern of handling the problem is carried out, among others, by the formation of an Integrated Team in handling claims which in fact helps the accuracy of the data of Task Forces A and B in making the Nominative List, as well as cooperation with law enforcement officers in overcoming the involvement of the land mafia and land crime perpetrators so that a definite decision is obtained. law.

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