

JURIDICAL ANALYSIS OF ACQUISITION OF LAND RIGHTS AS OBJECTS OF AGRARIAN REFORM IN THE PERSPECTIVE OF SETTLEMENT OF LAND TENURE IN FOREST AREAS

(Research Study at The Karimun Regency Land Office)

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Abstract

Protected Forest Areas are forests or large areas of land that contain a collection of types of flora and fauna that form naturally or not. Forest areas designated as protected forest areas have a role as providers of clean water reserves, flood prevention, erosion protection, city lungs, and many more. The problems in this research are: How is the Legal Regulation of the Policy on Acquisition of Land Rights Objects of Agrarian Reform in the Perspective of Settlement of Land Tenure in Forest Areas, How is the Implementation of the Policy of Acquisition of Land Rights Objects of Agrarian Reform in the Perspective of Settlement of Land Tenure in Forest Areas, and What are the Factors? Constraints/Obstacles and Solutions to Policy Acquisition of Land Rights Objects of Agrarian Reform in the Perspective of Settlement of Land Tenure in Forest Areas. This research aims to determine the Legal Regulations for Acquisition of Land Rights for Objects of Agrarian Reform in the Perspective of Settlement of Land Tenure in Forest Areas. To find out how the policy for acquiring land rights over objects of agrarian reform is implemented in the perspective of resolving land tenure in forest areas, to find out the obstacles/obstacles and solutions to the policy of acquiring land rights over objects of agrarian reform in the perspective of resolving land tenure in forest areas. This research uses a descriptive method using a normative approach (Legal research) to obtain primary data through field research (research). The results of the research show that the Policy for Acquisition of Land Rights for Agrarian Reform Objects in the Perspective of Settlement of Land Tenure in Forest Areas (Research Study at the Karimun Regency Land Office) has basically been implemented well although there are still many obstacles in the field, especially the lack of professional and dedicated human resources high For this reason, it is hoped that the work mechanism of the Environment and Forestry Service of Riau Islands Province will be optimized so that obstacles related to the control of land rights in forest areas can be resolved.

Keywords: *Policy, Land and Forest*

1. INTRODUCTION

Protected Forest Areas are forests or large areas of land that contain a collection of types of flora and fauna that form naturally or not. Forest areas designated as protected forest areas have a role as providers of clean water reserves, flood prevention, erosion protection, city lungs, and many more. Protected forests can be established in highland areas as rain catchment areas, along river flows, or on the shores of the coast. The main asset of this protected forest is the trees which stand as a barrier to reduce mass movements such as rocks, erosion, landslides, debris flows and floods. The protective effect of this protected forest can only be ensured if the silvicultural system used for its resilience does not have a significant adverse impact on the surrounding environment.

Riau Islands Province, there is the Sungai Pulai Protected Forest Area which was designated based on the Decree of the Minister of Forestry Number: 424/Kpts-II/1987 dated 28 December 1987 concerning Determination of the B. Cat, S. Pulai, G. Lengkuas and G. Kijang Forest Groups

as large as 2638 ha in the Riau Islands Level II Regional Regency, Riau Level I Regional Province. furthermore The Minister of Environment and Forestry stipulates changes to forest areas based on Decree SK.76/MenLHK-II/2015 dated 06 March 2015 concerning changes in the designation of forest areas to forest areas covering an area of ± 231,441 ha, consisting of: Forest areas that have an important impact and have a wide coverage and strategic value (DPCLS) covering an area of ± 23,872 ha, non DPCLS covering an area of ± 207,569 ha. Then there is a change in the function of the forest area covering an area of ± 60,299 ha and the designation of a non-forest area as a forest area covering an area of ± 536 ha. Based on the decree of the Minister of Environment and Forestry, the forest area in Tanjungpinang City is as large as ± 1,954.58 hectares. 1

De facto, the community has occupied it for settlements/housing, plantations, agriculture and land use and control of forest areas as large as ± 66.79 hectares (17.2%) of the forest area in Tanjungpinang City which does not have legal certainty and of the total area which results in changes in the function of forest areas and destruction of forest areas. In order to fulfill the aspirations of the people who have been using and physically controlling the Sungai Pulai Protected Forest area, the Government is making efforts to reduce poverty, unemployment and inequality in the management/utilization of forest areas, so social forestry activities are needed in order to provide legal access to local communities in the form of forest management. Villages, Community Forest Business Permits, Community Plantation Forests, Forestry Partnerships or recognition and protection of customary law communities for community welfare and preservation of forest resources through Minister of Environment and Forestry Regulation Number: P.83/MenLHK/SETJEN/KUM.1/10 /2016 About Social Forestry.

Granting land rights in Bintan Regency, the person with the authority to make decisions on granting land rights is the Head of the Tanjungpinang Land Agency Office based on the delegation of authority to grant land rights as regulated in the regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 1 of 2011 concerning Delegation of Authority to Grant and Cancellation of the Decision to Grant Rights to State Land. The process of granting land rights is also implemented in the Riau Islands Province through Presidential Regulation of the Republic of Indonesia Number 88 of 2017 concerning Settlement of Land Tenure in Forest Areas, as a policy that needs to be taken by the government in order to resolve and provide legal protection for community rights in the area. forests that control land in forest areas.

2. PROBLEM FORMULATION AND RESEARCH METHODS

The formulation of the problem is formulated with the question: How is the legal regulation of the acquisition of land rights over the object of agrarian reform in the perspective of resolving land tenure in the area, how is the implementation of the juridical analysis of the acquisition of land rights over the object of agrarian reform in the perspective of resolving land tenure in the forest area (research study at the district land office Karimun), Obstacle Factors/Barriers and Solutions for Juridical Analysis of Acquisition of Land Rights for Agrarian Reform Objects in the Perspective of Settlement of Land Tenure in Forest Areas (Research Study at the Karimun Regency Land Office)" (Research Study at the Environment and Forestry Service of Riau Islands Province), The aim of this research is to find out the legal arrangements for acquiring land rights for objects of agrarian reform in the perspective of resolving land tenure in forest areas, to find out the implementation of acquiring land rights for agrarian reform objects in the perspective of resolving land tenure in forest areas (research study at the Karimun Regency Land Office), To find out the

factors that become obstacles/obstacles and solutions for juridical analysis of obtaining rights to land as objects of agrarian reform in the perspective of resolving land tenure in forest areas (research study at the Karimun Regency Land Office).

Specifically, according to the type, nature and objectives of legal research specifications, Soerjono Soekanto differentiates them into normative legal research and sociological or empirical legal research. This research is based on primary data/basic data, namely data obtained directly from the community as the first source through field research. 3 This research is normative legal research, supported by sociological/empirical research, using secondary data sources from library research for purposes of obtain a theoretical basis in the form of expert opinions or writings, and also to obtain information both in the form of formal provisions and data through official texts. Secondary data is in the form of legal materials, both primary, secondary and tertiary legal materials.

3. DISCUSSION

Legal Regulations Juridical Analysis of Acquisition of Land Rights Objects of Agrarian Reform in the Perspective of Settlement of Land Tenure in Forest Areas is contained in several laws and regulations such as Government Regulation Number 40 of 1996 concerning Business Use Rights, Building Use Rights and Land Use Rights; Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 which was updated with the issuance of Regulation Number 2 of 2013 concerning Delegation of Authority to Grant Land Rights and Land Registration Activities. Policy. The use of land in Indonesia is stated in Article 2 Paragraph (3) of Law Number 5 of 1960, that land must be used for the greatest prosperity of the people by planning in accordance with Article 14 and there is an obligation to maintain and increase the fertility of the land used.

Article 22 paragraph (2), Article 31 and Article 37 of the Agraria Basic Law regulate that one way of establishing rights to land is through government determination. In Article 1 point (2) the Forestry Law contains juridical problems, namely regarding whether land in a forest area is not included as an object of land law, so that land dispute issues that occur in an area designated as a forest area must be resolved. outside the authority of Government institutions that deal with land. Law Number 41 of 1999 differentiates forests based on their status, which consists of two types, namely state forests and private forests. State forests can be in the form of customary forests, namely state forests whose management is handed over to customary law communities (*rechtsgemeenschap*). Meanwhile, private forest is forest that is located on land that is burdened with land rights. Apart from that, if we look at its function, forest management is one of the important points regulated in the Forestry Law, where Article 10 of the Forestry Law states that management includes several activities starting from forestry planning and management.

The implementation of juridical analysis of the acquisition of rights to land as objects of agrarian reform in the perspective of resolving land tenure in forest areas begins with the formation of agrarian law which is one of the things that is focused on changing in an effort to improve the arrangement of the agrarian rights of the Indonesian people from colonial legal injustice. Some of the regulations produced include Law Number 28 of 1956 concerning Supervision of the Transfer of Rights to Plantation Land, Law Number 29 of 1956 concerning Regulations and Actions Concerning Plantation Land, Law Number 1 of 1958 concerning the Abolition of Private Lands, and Law Number 7 of 1958 concerning the Transfer of Agrarian Duties and Authorities. The aim of establishing the Basic Agrarian Law is explained in Article 2 paragraph (3), namely that the

authority which originates from the right to control the State is used to achieve the greatest prosperity of the people, in the sense of happiness, prosperity and independence in society and the State. Indonesian law which is independent, sovereign, just and prosperous.

Constraints/obstacles and solutions for juridical analysis of obtaining rights to land as objects of agrarian reform in the perspective of resolving land tenure in forest areas. The obstacle is that the lack of professional and highly dedicated human resources is a serious obstacle in future forestry development, especially in among the forestry business world and in the regions.

Forest conservation also requires dynamic harmony between forest management, community and population development, forestry industry development, trade and utilization of forest products. The institutional conditions in the forestry sector and various supporting fields are still not fully capable of supporting the development of a resilient and sustainable forestry production system. The various existing laws and regulations are generally not yet equipped with implementing regulations that are appropriate to the conditions in the field and that are in harmony with various other laws and regulations, so that the implementation of forestry development is often different from the ideals written in the basic laws and regulations. The solution needed is through improving the forest conservation and management system as forests as national development capital have real benefits for the lives and livelihoods of the Indonesian people, including ecological, socio-cultural and economic benefits in a balanced and dynamic manner. Therefore, in order to preserve the function of forests and the environment, a formal juridical instrumentation is needed in the form of provisions, norms or a set of strict laws and regulations to regulate the legal relationship between human behavior, attitudes and actions/actions towards forests, natural resources and the environment. with the aim of protecting, preserving forest functions, natural resources and the environment.

4. CLOSING

Legal arrangements for the acquisition of land rights for the objects of agrarian reform in the perspective of resolving land tenure in forest areas have been implemented well. This is clearly seen in the provisions contained in forestry law, namely Law Number 5 of 1967 concerning Basic Forestry Provisions (the first Forestry Law after independence as a replacement for the 1927 Bosch Ordonantie) and Law Number 41 of 1999 concerning Forestry (as a replacement for Law Number 5 of 1967).

Implementation of Acquisition of Land Rights for Agrarian Reform Objects in the Perspective of Settlement of Land Tenure in Forest Areas (Research Study at the Karimun Regency Land Office) is in accordance with applicable procedures. From a land law perspective, the integration of forest aspects with the land contains potential problems. The definition of forest area in both laws refers to the same thing, namely an area designated by the government to be maintained as permanent forest. The definition of forest area refers more to juridical aspects or legal status, while the definition of forest refers to physical and ecological aspects.

Factors that become obstacles and solutions for obtaining rights to land for reform objects Agrarian Affairs in the Perspective of Settlement of Land Tenure in Forest Areas (Research Study at the Karimun Regency Land Office) are:

1. The lack of professional and highly dedicated human resources is a serious obstacle in future forestry development, especially in the forestry business world and in the regions.

2. Forest conservation is needed so that there is dynamic harmony between forest management, development of society and population, development of the forestry industry, trade and utilization of forest products.
3. This lack of scientific and technological capabilities will be an important obstacle in forestry development in the future.
4. The various existing laws and regulations are generally still not equipped with implementing regulations that are appropriate to the conditions in the field and that are in harmony with various other laws and regulations, so that the implementation of forestry development is often different from the ideals written in the basic laws and regulations.
5. Underdeveloped forestry institutions and their various supporters will be a serious obstacle in increasing the efficiency and effectiveness of forestry production system development and in increasing community participation in the future.

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