

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Syeh Aries Fauzan¹, Mohammad Hamidi Maskur², Herlindah³

¹Program Magister Ilmu Hukum Fakultas Hukum Universitas Brawijaya

^{2,3}Fakultas Hukum Universitas Brawijaya, Malang

Correspondent Email : syehariesfauzan@gmail.com

Received : 01 October 2025

Published : 24 December 2025

Revised : 15 October 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i6.4521>

Accepted : 29 November 2025

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

Abstract

Although the general provisions for consignment of compensation have been regulated in land acquisition regulations, this study identified the incompleteness of explicit legal norms regarding the basis and procedures for consignment on the grounds that the entitled party is unknown. The focus of this study lies in whether the District Court is justified in granting a consignment application for public interest development on the grounds that the entitled party is unknown, reviewed from the concept of land ownership in Indonesia and comparative law with Malaysia. Through a normative legal approach and legal comparison, this study found that the court's decision to grant consignment for an unknown party is contrary to the basic concept of the State's Right to Control (HMN) as regulated in Article 33 paragraph (3) of the 1945 Constitution in conjunction with Article 2 of Law Number 5 of 1960. Legally, if there is no legal subject ownership right attached to the land, the status of the land essentially returns to State Land, so that efforts to consign compensation become irrelevant and normatively unnecessary. This finding emphasizes the importance of legal certainty in the implementation of land acquisition regulations.

Keywords: *deposit of compensation, unknown entitled party, court decision, legal certainty*

BACKGROUND

Land not only has economic value and provides prosperity for its owners, but also impacts social, political, and cultural aspects that affect the livelihoods of many people. This situation prompted J.J. Rousseau to integrate public land ownership as a crucial component of his social contract theory.¹ Social life will inherently demand restrictions on individual freedom, where each person's freedom will be limited by the equal rights and freedoms of others, as well as by the demands of living together.² Thus, land naturally has a social function attached to it. The limited availability of land amidst massive population growth creates a disparity between supply and demand, so that government intervention through land law regulations is very necessary. In accordance with the mandate of Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia³ ("UUD 1945"), the state holds authority over the land, water, and all natural resources within them, which must be utilized optimally for the welfare of the people. This is a fundamental constitutional basis that affirms that all land management and use activities in Indonesia must aim to create the greatest prosperity for all its citizens. This basis emphasizes the social function of land rights, where private ownership is not absolute and land use must be in line with public, national and state interests. In an effort to achieve equity and prosperity, the government actively implements development for the public good. This development often faces a fundamental challenge: the acquisition of community-owned land. This process requires a balance between individual ownership rights guaranteed by law and the state's public authority to acquire land for the public interest. To regulate this land acquisition mechanism, the government has enacted a series of regulations, starting with Law Number 2 of 2012 and its most recent amendment, Law Number 6 of 2023 concerning Job Creation. The construction of transmission networks is one of the categories of development for the

¹Benhard Limbong, Land Acquisition for Development, Law Enforcement Compensation Regulations, Jakarta: Margareta Pustaka, 2011, p. 5

²Frans Magnis Suseno, Political Ethics; Basic Moral Principles of Modern Statecraft, Gramedia, Jakarta: 2003, p. 258

³The 1945 Constitution of the Republic of Indonesia (Article 33 (3))

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Sheikh Aries Fauzan et al

public interest which is explicitly regulated in Article 10 letter f of Chapter VIII of Law Number 6 of 2023 concerning Job Creation.⁴The implementation of infrastructure development requires a land acquisition process. During the land acquisition process, the committee often encounters obstacles, preventing the acquisition of land. To address this impasse, the law provides a mechanism for depositing compensation with the District Court, based on Article 42 of Law Number 6 of 2023.⁵ However, although provisions for the deposit of compensation have been generally regulated, there is an incompleteness of legal norms regarding the procedures and legal basis that explicitly regulate the reasons for depositing compensation for entitled parties whose owners or whereabouts are unknown. Practice in the field, as exemplified by the Tangerang District Court Decision Number 19/Pdt.P.Cons/2024/PN.Tng⁶and Number 23/Pdt.P.Cons/2024/PN.Tng⁷between PT PLN (Persero) as the Applicant for the deposit of compensation against the Unknown Party as the Respondent for the deposit of compensation, this shows that the Tangerang District Court has granted the application for the deposit of compensation on the grounds that the party is unknown, which is based on the interpretation of existing norms. Based on the background of the problem above, a fundamental question arises whether the District Court is justified in granting a request for entrustment of compensation where the rightful party as the Respondent is not known at all who the owner or whereabouts are, therefore, it is important to analyze and study in depth the legal regulations regarding entrustment of compensation for unknown parties in the context of land acquisition for development in the public interest so that it is hoped that it can provide clarity of norms and legal certainty.

LITERATURE REVIEW

The literature review includes an analysis of previous studies, the majority of which discuss the mechanism for entrusting compensation for development in the public interest. However, this study specifically highlights the decision of the District Court which granted compensation on the grounds that the entitled party (owner) was unknown, which will be reviewed from the basic principle of the state's right to control as regulated in Article 2 of Law Number 5 of 1960 concerning the Basic Principles of Agrarian Law.⁸which means that the right to control by the state covers land that is owned by an individual or legal entity based on ownership rights or land that is controlled based on proof of control so that the right to control by the state over land is limited by the rights that are already owned or controlled by an individual or legal entity, while land on which there are no rights will return to the state with the nature of control by the state being broader and more complete.⁹. To enrich the analysis, this study will also compare the regulations on the custody of compensation with the provisions on land acquisition for public purposes in Malaysia. The comparative legal basis refers to the State Land Act No. 56 of 1965 (Deed No. 5 of 1965) and the Land Acquisition Act No. 486 of 1960.¹⁰

RESEARCH METHODS

This research uses a normative juridical method by means ofThis study analyzes the applicable laws and regulations and all forms of normative regulations related to this case. This study examines and analyzes the concept of land ownership based on Law Number 5 of 1960 and the concept of entrusting compensation as contained in Articles 1404 to 1412 of the Civil Code.¹¹which is then linked to the rules for entrusting compensation toArticle 42 of Law Number 6 of 2023. This conceptual approach is used to test whether the District Court is justified in granting a compensation order on the grounds that the entitled party is unknown. This researcher also utilizes a comparative approach to compare the concept of entrusting compensation with legal practices in other countries. Furthermore, primary legal materials include laws and court decisions, while secondary legal materials include scientific literature or non-official legal publications. This research uses library research and documentary studies with comparative interpretation analysis techniques by comparing several legal regulations with the aim of seeking clarity on the intent of a statutory provision.

⁴Law Number 6 of 2023 concerning Job Creation, Chapter VIII Land Acquisition for Public Interest (Article 10 letter f)

⁵Law Number 6 of 2023 concerning Job Creation, Chapter VIII Land Acquisition for Public Interest (Article 42)

⁶Tangerang District Court Decision Number 19/Pdt.P.Cons/2024/PN.Tng

⁷Tangerang District Court Decision Number 23/Pdt.P.Cons/2024/PN.Tng

⁸ Law Number 5 of 1960 concerning Basic Agrarian Principles (Article 2)

⁹CST Kansil, Introduction to Indonesian Law and Legal System, Jakarta: Balai Pustaka, 1989, pp. 321-322.

¹⁰Benhard Limbong, Op., Cit, p. 287

¹¹Civil Code (Article 1404)

RESULTS AND DISCUSSION

Arrangements for Depositing Compensation in Land Acquisition for Development in the Public Interest

According to Adrian Sutedi in his book "Land Acquisition and Infrastructure Development," consignment is a legal procedure in which the party authorized to acquire land entrusts a sum of compensation to the local district court. This is done as an effort to continue the land acquisition process despite obstacles in making direct payments to the entitled parties.¹²

The provisions for depositing compensation for development in the public interest can be found in Article 42 paragraphs (1) and (2) of Law Number 2 of 2012, which was last amended by Law Number 6 of 2023 concerning Job Creation, CHAPTER VIII Land Acquisition, namely:

- (1) In the event that the entitled party rejects the form and/or amount of compensation based on the results of deliberations as referred to in Article 37, or the decision of the district court/supreme court as referred to in Article 38, the compensation shall be deposited in the local district court;
- (2) Deposit of Compensation other than as referred to in paragraph (1) is also carried out for:
 - a. **The whereabouts of the entitled party is unknown;** or
 - b. Land Acquisition Objects for which Compensation will be Given:
 1. is being the object of a case in court;
 2. ownership is still disputed;
 3. placed confiscated by an authorized official; or
 4. become collateral at the bank.

For the smooth examination of applications for entrusting compensation to the District Court in land acquisition for development in the public interest as mandated in Article 42 of Law Number 2 of 2012 which was last amended by Law 6 of 2023 concerning job creation, the Supreme Court has issued Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2024 concerning the Second Amendment to Regulation of the Supreme Court Number 3 of 2016 which specifically regulates the procedures for submitting applications for entrusting compensation to the District Court. The procedures for submitting an application for depositing compensation for land acquisition for development in the public interest are regulated in Article 25 of Supreme Court Regulation Number 2 of 2021 concerning Amendments to Supreme Court Regulation Number 3 of 2016.¹³, Applicants or Agencies requiring land must at least attach a letter of application for custody of compensation which at least contains the identity of the Applicant including the name of the agency/legal entity, domicile, head of the agency/person authorized to represent the legal entity in court, identity of the attorney if represented by an attorney and the Identity of the Respondent including the name/name of the legal entity/name of the government agency/customary law community, place of residence/domicile, legal relationship with the land acquisition object as the entitled party.

If there are still parties who have the right to control the land acquisition object after the compensation has been deposited in the Court, the Agency requiring the land shall submit an application to vacate the land to the District Court in the area where the Land Acquisition is located. The process of vacate the land to be used for public interest development is carried out based on civil procedural law as regulated in the HIR/Rbg and the execution guidelines applicable in the District Court. The Head of the District Court may reject the application for custody of compensation money if the application submitted by the Agency requiring the land as the applicant does not fulfill the provisions as stipulated in Law Number 2 of 2012 which was last amended by Law Number 6 of 2023 in conjunction with Government Regulation Number 19 of 2021 which was last amended by Government Regulation Number 39 of 2023 in conjunction with Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2024 concerning the Second Amendment to Regulation of the Supreme Court Number 3 of 2016.

Arrangements for Safekeeping of Compensation for Development in the Public Interest in Conditions where the Entitled Party is Unknown to the Land Acquisition Object

The District Court has the authority to examine, decide and resolve agrarian problems in Indonesia from a civil perspective, as regulated in Article 50 of Law Number 2 of 1986 concerning General Courts which regulates

¹²Adrian, Sutedi. Land Acquisition and Infrastructure Development. Jakarta: Sinar Grafika, 2012, p. 155

¹³ Supreme Court Regulation Number 2 of 2021 concerning Amendments to Supreme Court Regulation Number 3 of 2016 (Article 25)

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Sheikh Aries Fauzan et al

the absolute authority of the district court.¹⁴ Agrarian problems from a civil aspect that are tried by the district court are cases that are related to the legal status of land ownership rights, release of rights, land ownership, transfer of land ownership rights, and other disputes that are related to agrarian problems.¹⁵ In resolving problems in Indonesia, the District Court is obliged to provide provisions that guarantee that the process of resolving cases in the agrarian sector can provide legal certainty, benefits and justice through decisions or determinations made so that the resulting legal product can provide effective, efficient, complete and final resolution of agrarian problems so that the issuance of these decisions can satisfy the parties.¹⁶ One of the authorities of the District Court in the agrarian sector is to examine applications for entrusting compensation for development in the public interest as regulated in Article 42 paragraphs (1) and (2) of Law Number 6 of 2023 concerning Job Creation Chapter VIII concerning Land Acquisition. In this context, the Tangerang District Court has accepted an application for compensation for development in the public interest on the grounds that the entitled party is unknown, then the Tangerang Court has decided with the following Stipulation:

No	Determination	Party	Information
1	19/Pdt.P.Cons/2024/PN.Tng	Applicant PT PLN (Persero) Respondent Unknown	The District Court granted the Applicant's application by declaring it valid and accepting the deposit of compensation for land plot number T.22 affected by the Construction of SUTT 150 kV Tigaraksa II - Tigaraksa to the Respondent as compensation payment with the land plot in the name of the Respondent/UNKNOWN party entitled to receive the compensation deposit.
2	23/Pdt.P.Cons/2024/PN.Tng	Applicant PT PLN (Persero) Respondent Unknown	The District Court granted the Applicant's application by declaring it valid and accepting the deposit of compensation money for land plot number T.23 affected by the Construction of SUTT 150 kV Tigaraksa II - Tigaraksa to the Respondent as compensation payment with the land plot in the name of the Respondent/UNKNOWN party entitled to receive the deposit of compensation.

The definition of an unknown party in the court ruling means that the party entitled to the land cannot be identified as the owner of the land object to be released because no legal data in the form of the name, identity, occupation and address of the entitled party can be found so that evidence of control and/or ownership of the land, buildings, plants and/or objects related to the land to be released cannot be identified. If we look at the norms in Article 42 paragraph (2) of Law Number 2 of 2012 which was last amended by Law Number 6 of 2023 CHAPTER VIII concerning Land Acquisition, there is no reason to entrust compensation for land acquisition for Development in the public interest where the entitled party is unknown, currently the norm regulated as one of the reasons for entrusting compensation to the District Court is "the whereabouts of the entitled party are unknown" as in Article 42 paragraph (2) letter a of Law Number 2 of 2012 which was last amended by Law Number 6 of 2023 concerning Job Creation CHAPTER VIII Land Acquisition so that it will raise the question of whether the District Court is justified in accepting entrustment of compensation for land acquisition for "the entitled party is unknown" based on the provisions of the norm of Article 42 paragraph (2) letter a of Law Number 2 of 2012 which was last amended by Law Number 6 of 2023 concerning Job Creation CHAPTER VIII Land Acquisition which reads "the whereabouts of the entitled party are unknown". Referring to Article 25 of the Supreme Court Regulation Number 2 of 2021, it is required that the application letter for the deposit of compensation must contain the Respondent's Identity which

¹⁴Article 50 of Law Number 2 of 1986 concerning General Courts states: "The District Court has the duty and authority to examine, decide and resolve criminal and civil cases at the first level."

¹⁵Dani Elpah et al, Point of Contact between the Authority of General Courts and State Administrative Courts in Land Disputes (Jakarta: Center for Legal and Judicial Research and Development, Research and Development and Training for the Supreme Court of the Republic of Indonesia, 2014), 28

¹⁶A. Mukti Arto, Seeking Justice, Critique and Solutions to Civil Court Practices in Indonesia, (Yogyakarta: Pustaka Pelajar, 2001), 12-13

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Sheikh Aries Fauzan et al

includes the name/name of the legal entity/name of the government agency/customary law community, residence/place of domicile, legal relationship with the land acquisition object as the entitled party so that by observing the intent of the above article, it can be interpreted that the norm of "unknown party" has a different meaning from the norm of "unknown party" as one of the reasons for depositing compensation in the Court, the norm of the unknown party is interpreted by the legislator as the party entitled to the land acquisition object whose legal data in the form of the name of the owner is known but cannot be identified or the whereabouts or address where the entitled party lives or is domiciled is unknown while the intent of the unknown entitled party in the stipulation 19/Pdt.P.Cons/2024/PN.Tng and stipulation 23/Pdt.P.Cons/2024/PN.Tng which has been described above is that the party entitled to the land cannot be identified by name, identity, occupation, and address of the party entitled to the procurement object land so that no evidence of control and/or ownership of land, buildings, plants and/or objects related to the land to be acquired can be identified.

The basic concept of land use and utilization originates from Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which expressly states that the land, water and natural resources contained therein are controlled by the State and used to the greatest extent for the prosperity of the people. This clearly contains a very basic constitutional mandate, namely that the utilization and use of land must bring the greatest possible welfare for the prosperity of the Indonesian people.¹⁷ From what is mandated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles ("UUPA") was formed, where the basic principle of land ownership rights according to the UUPA is the state's right to control which is regulated in Article 2 of the UUPA and is rooted in Article 33 paragraph (3) of the 1945 Constitution.¹⁸ This right to control the country gives the state the authority to:

- Regulating and organizing the allocation, use, supply and maintenance of earth, water and space.
- Determine and regulate legal relationships between people and the earth, water and space.
- Determine and regulate legal relationships between people and legal actions concerning earth, water and space.¹⁹

Referring to the concept of the state's right to control, the UUPA further regulates the categories of land rights in Article 16, namely Ownership Rights, Cultivation Rights, Building Rights, Usage Rights, Management Rights and others, as well as customary rights which have been explicitly mentioned in Article 3 of the UUPA so that the state's right to control the land is limited by the rights already owned by individuals, legal entities and indigenous communities, while land on which there are no rights will return to the State with the nature of control by the State being broader and fuller.²⁰ Based on the concept of land ownership regulated by the UUPA, it can be concluded that if there are no ownership rights or control over land owned by individuals, legal entities, or indigenous communities, then the land will essentially return to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which means it is state land. This has also been emphasized in Article 2 paragraph (1) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration, which states that State Land or Land directly controlled by the State is land that is not attached to any land rights, is not waqf land, is not customary land and/or is not a state asset/regional asset.²¹ Thus, looking at the definition of land where the entitled party is unknown because no legal data is found in the form of the name, identity, occupation, and address of the entitled party or the legal relationship between the entitled party and the land acquisition object, then land whose party is unknown will essentially return to Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia in conjunction with Article 2 paragraph (1) of Government Regulation Number 18 of 2021 so that it is state land, the next question is whether a compensation deposit mechanism is still needed on the grounds that the entitled party is unknown where land for which the entitled party is unknown has been legally declared again as state land. Referring to the provisions of Article 43 of Law Number 2 of 2012 which confirms that the ownership or rights to land of the entitled party are revoked and declared invalid if the compensation has been implemented or has been deposited in the District Court. Based on this provision, a legal implication arises that land whose owner is not legally known will return to the State's Right to Control as mandated by Article 33 Paragraph (3) of the 1945 Constitution in conjunction with Article 2 Paragraph (1) of Government Regulation Number 18 of 2021. Because

¹⁷Benhard Limbong, Op.cit, Jakarta, p. 5

¹⁸Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Principles, State Gazette of the Republic of Indonesia 1960 Number 104, Supplement to the State Gazette of the Republic of Indonesia Number 2043, Article 2

¹⁹Ibid, Article 2 paragraph (2)

²⁰CST Kansil, Op Cit, Jakarta, pp. 321-322.

²¹ Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration, Article 2 paragraph (1).

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Sheikh Aries Fauzan et al

the status of the land has essentially become land directly controlled by the state, then normatively, there is no longer a need for an application for depositing compensation to the District Court. This logic is based on the premise that the purpose of depositing compensation is to eliminate private ownership rights to change the status of the land to land controlled by the state, if the land has the status of state land because the owner is absent, the process of depositing compensation becomes irrelevant for the purpose of changing the status of rights. Meanwhile, as a comparison, the regulation for depositing compensation for land acquisition for public interest in Malaysia is regulated in the State Land Code Number 56 of 1965 (Deed No. 5 of 1965) and the Land Acquisition Act Number 486 of 1960, where Article 52 (2) and Article 70 of the State Land Code stipulate that the party entitled to take land is the state authority (King, Governor, Government) with the obligation to provide compensation equivalent to the market price or provide replacement land to the land owner.²² Thus, it can be concluded that the regulation on depositing compensation for land acquisition for public interest in Malaysia also requires that the entitled party be known so that the provision of appropriate compensation by the authorities can be carried out, and even every person who receives compensation must have a better life than their previous life, so that the land acquisition carried out by the authorities of the country never harms the owner.²³

A normative analysis of Article 42 paragraphs (1) and (2) of Law Number 2 of 2012 as amended by Law Number 6 of 2023 concerning Job Creation, Chapter VIII Land Acquisition, shows that the reasons permitting the deposit of compensation in the Court have been formulated expressively and limitatively (*expressis verbis*). This provision implicitly accommodates the concept of land ownership rights and the practice of depositing compensation in the comparative legal realm. Thus, every application for depositing compensation must include the name, identity, existence and clear legal relationship as the party entitled to the land acquisition object. Departing from this principle, a decision that grants the deposit of compensation on the grounds that the entitled party is unknown (the Respondent is unknown) is considered contrary to established norms, because it has the potential to give rise to the addition of new norms (norm creation). This condition can substantially harm the basic concept of land ownership, thus having implications for not achieving the main objective of the law, namely legal certainty, which should be realized through the implementation of existing statutory norms.

Legal certainty itself is needed to create order, with order an orderly society will be realized. In order to create order in society, efforts are made to create certainty. Legal certainty is essentially a certainty about how citizens resolve legal problems, what the role and usefulness of legal institutions for society and so on. The theoretical aspect of legal certainty and legal protection, namely if the legal norms that have been regulated in the legislation are interpreted properly so that it will provide legal certainty, because with the existence of legal certainty, what is aspired to the purpose of the law to create order can be realized and in addition, legal certainty also provides legal protection for those who receive rights from civil case decisions so that the decision can be implemented. The District Court's approval of the compensation entrustment order on the grounds that the entitled party is unknown (the Respondent is unknown) raises two fundamental issues. First, the order contradicts the principle of legal certainty. Second, this situation creates new legal challenges in the future, particularly when someone suddenly claims ownership of the land acquisition object that has been entrusted on the grounds that the entitled party is unknown. The absence of clear procedures and mechanisms for claimants to collect compensation money that has been deposited on the grounds that the entitled party is unknown opens up opportunities for legal smuggling because if the procedure is the same as depositing compensation on the grounds that the entitled party's whereabouts are unknown (the owner is known but the address or whereabouts are unknown as regulated in Article 92 paragraph (2) of Government Regulation Number 19 of 2021), then a significant risk arises, namely when the requirements for collection are only in the form of a cover letter from the Head of the land acquisition implementation, the implication is that the land acquisition implementation can issue the letter without first going through a legal process of proving ownership;

CONCLUSION

The application for the determination of the entrustment of compensation for land acquisition on the grounds that "the Entitled Party is Unknown" (including the identity of the legal subject, legal relationship and existence) which was granted by the District Court gave rise to a conflict of norms and violated the principle of legal certainty because it was a deviation from the *expressis verbis* norm, Article 42 paragraph (2) of Law Number 2 of 2012 in conjunction with Law Number 6 of 2023. This provision in a limited manner only accommodates the reason for entrustment because "the whereabouts of the entitled party are unknown", which implies certainty regarding the

²²Taufik Rokhman "Reconstruction of Compensation Custody Regulations in Land Acquisition for Development in the Public Interest Based on Justice" (Doctoral Dissertation, Sultan Agung Islamic University, Semarang, p. 144)

²³Benhard Limbong, *Op.cit*, Jakarta, p. 289

ARRANGEMENTS FOR THE CUSTODY OF COMPENSATION FOR UNKNOWN PARTIES IN THE FRAMEWORK OF LAND ACQUISITION FOR DEVELOPMENT IN THE PUBLIC INTEREST

Sheikh Aries Fauzan et al

identity of the legal subject of the initial owner, even though the location is unknown, thus, the granting of the application without including the name, identity and legal relationship of the entitled party, substantively creates a new norm that is not in line with the objectives of legal certainty, in addition to the granting of entrustment of compensation for land acquisition objects whose legal subject owners are completely unknown also contradicts the basic concept of the State's Right to Control as regulated in Article 33 paragraph (3) of the 1945 Constitution in conjunction with Article 2 of Law Number 5 of 2023. 1960 because basically if there are no ownership or control rights from the legal subject attached to the land, the status of the land essentially returns to being State Land, so that efforts to secure compensation become irrelevant and not legally necessary.

REFERENCES

Buku

- Arto, A. M. (2001). Mencari Keadilan, Kritik dan Solusi Terhadap Praktik Peradilan Perdata di Indonesia. Yogyakarta: Pustaka Pelajar.
- Elpah, D. (2014). Titik Singgung Kewenangan Peradilan Umum dan Peradilan Tata Usaha Negara dalam Sengketa Pertanahan. Jakarta: Puslitbang Mahkamah Agung RI.
- Kansil, C. (1989). Pengantar Ilmu hukum dan Tata Hukum Indonesia. Jakarta: Balai Pustaka.
- Limbong, B. (2011). Pengadaan Tanah Untuk Pembangunan Regulasi Kompensasi Penegakan Hukum. Jakarta: Gramedia.
- Suseno, F. M. (2003). Etika Politik; Prinsip-prinsip Moral Dasar Kenegaraan Modern. Jakarta: Gramedia.
- Sutedi, A. (2012). Pengadaan Tanah dan Pembangunan Infrastruktur. Jakarta: Sinar Grafika.

Dokumen Pemerintah / Undang - Undang

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
- Kitab Undang-Undang Hukum Perdata;
- Undang-Undang Nomor 2 Tahun 2012 tentang Pengadaan Tanah Bagi Kepentingan Umum
- Undang-Undang Nomor 5 Tahun 1960 tentang Dasar Pokok-Pokok Agraria
- Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja yang telah diubah kembali dengan Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang
- Undang-Undang Nomor 2 Tahun 1986 tentang Peradilan Umum
- Pemerintah Nomor 18 Tahun 2021 tentang Hak Pengelolaan, Hak atas Tanah, Satuan Rumah Susun dan Pendaftaran Tanah, Pasal 2 ayat (1).
- Peraturan Mahkamah Agung Nomor 2 Tahun 2024 tentang Perubahan Kedua atas Peraturan Mahkamah Agung Nomor 3 Tahun 2016 tentang Cara Pengajuan Keberatan dan Penitipan Ganti Kerugian ke Pengadilan Negeri dalam Pengadaan Tanah Bagi Pembangunan untuk kepentingan Umum
- Penetapan Pengadilan Negeri Tangerang Nomor 19/Pdt.P.Cons/2024/PN.Tng
- Penetapan Pengadilan Negeri Tangerang Nomor 23/Pdt.P.Cons/2024/PN.Tng

Disertasi

- Rokhman, Taufik. (2023) "Rekonstruksi Regulasi Penitipan Ganti Kerugian Pada Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum Yang Berbasis Keadilan" Semarang : Universitas Islam Sultan Agung