

Abandoned Land Empowerment in The Framework of Law Reform and Agraria Reform

Basuki Rachmad¹, Faisal Santiago²
{basukibanjarmasin1@gmail.com}

Universitas Borobudur, Jakarta, Indonesia¹²

Abstract. Today, abandoned land is a reality. From the standpoint of land's social role, this reality is consistent with the ambitions to maximize land empowerment in order to satisfy life's demands, both in the form of residential uses and the need for national development in the form of infrastructure. The phenomenon of abandoned land is also in violation of CHAPTER XIV Article 33 paragraph (3) of the 1945 The land, rivers, and resources are all mentioned in the Constitution. within are under the sovereignty of the state and utilized for the greatest good of the people. As a result, land empowerment is a requirement that must be achieved both in the form of statutory instruments and real policies in order to close holes in the land usage and in the context of revising national legislation in the field of land, which is accomplished through agrarian reform.

Keywords: Empowerment of land; reform of national law; agrarian reform

1 Introduction

The land issue known as agrarian since ancient times until now is a problem that always arises and will never be completely resolved. From one decade to the next, this problem always arises, especially with population growth which inevitably requires land availability, both as a place of residence and as a place of business that requires extensive land. So in this perspective, it means that the need for land (land) is growing more and more to keep up with the current and rapid population growth and infrastructure development, which inevitably requires land according to its designation.

At least in the present condition, land-related issues are recognized as being part of the necessities of life that are considered urgent for humans. Even now it has become a human dependence so the land has created a physical and juridical relationship between the two. The relationship in the perspective of mutualist symbiosis strengthens the two as an inseparable unit. From the point of view of physical relations in the form of the utilization and use of land. On the other hand, in a juridical relationship, it is defined that the land object which has given birth to rights for the owner gives the authority to take legal action as well as to transfer, grant rights, or guarantee the land object freely to other parties.

As a result of this very dominant need for land, it often creates legal problems in the form of land disputes because of the principle of mutual defense of rights, psychology, politics, military, and economics. Since of the significance of the land sector, the Constitution requires the government to regulate and manage it because it is regarded to be a sector of life that has a big impact on the lives of many individuals. It is verified in the Constitution, particularly the Republic of Indonesia's Constitution of 1945, in Article 33 paragraph (2), which states: "The State manages the people's lives and regulates the production branches that are critical to the

State"Earth and water, as well as the natural resources contained within, are retained by the State and exploited for the people's seems most," says Article 33 paragraph (3) of the 1945 Constitution.

On September 24, 1960, the Government issued for the first time the product of land law The Basic Agricultural society Law is also known as the Agrarian Law to actualize the form of the holy idea of Article 33 paragraph (3) of the 1945 Constitution.

"The new agrarian law must provide the possibility of achieving the functions of earth, water, and space as intended above and must also be by the interests of the Indonesian people and the State and meet the needs of the times in all agrarian matters," the law says. That is, the Supreme Deity, Humanity, Nationality, Citizenship, and Social Justice, as well as its Power, must be the Article 33 of the Constitution is being implemented and the GBHN, as declared in the Republic of Indonesia's Political Proclamation on August 17, 1945, and reiterated in President Sukarno's speech of August 17, 1960."

Starting from the thought of how important land issues are in the context of national, nation, and state development for the benefit the land, and the people as a whole becomes a necessity that must be utilized as much as possible according to its function. However, the ideal conception of being able to enforce and empower land optimally according to its needs and interests sometimes does not match reality. There is still a gap between ideals and reality because it turns out that there are still many abandoned lands that are not utilized optimally as a need that must be met. So that this reality is very detrimental and is not in accordance to make maximum use of the function of the land that is needed.

Problem Formulation

From the thoughts stated above, this paper tries to discuss the issue of how to empower abandoned land in the framework of current agrarian reform and reform about responding to national development challenges related to land and its context in the perspective of land law reform in general.

2 Research Methods

The writing is normative legal research by examining secondary materials using library research, where the above examination answers legal issues by using the legal theory that supports through library studies and the opinions of legal experts that are proportionally appropriate. From all of that, a critical analysis was then carried out and the conclusion was made through suggestions.

3 Results and Discussion

The title Right to Control over Land is given to legal institutions in the particular connection between the State and Indonesian land, which is described in its contents and aims in Article 2 paragraphs (2) and (3) of Law Number 5 of 1960.

The conception of land control carried out by the State is control whose authority rights have given rise to responsibility for the State, namely the control of the land must be used fully to create people's prosperity. In other words, it can be interpreted that the relationship between individuals and land is a legal relationship that gives rise to rights and responsibilities. Meanwhile, Authority and responsibility are born from the link between the state and the land.

Abandoned land is a problem in the land sector (agrarian) because such a situation gives birth to a conflict with the function and existence of land which is needed. It is especially so in the current state of the land where the land must now really function according to its designation. Very limited land on the one hand with the necessary needs on the other hand both for residential facilities and development in the field of infrastructure has created a gap that is not following the ideals in the sphere of national development, particularly in the area of changing national legislation in the land sector.

The anticipation to overcome this abandoned land problem seems to have ups and downs with various problems that accompany it, so it seems that this problem is not an easy problem to overcome in the form of policies made for it. Many obstacles accompany it, so it seems that the policy that should be completed by State in overcoming the deserted land problem is not temporary but becomes a necessity in the form of a sustainable policy.

If you look closely, the problem of abandoned land has a long history both in various forms of policy in the form of legal rules. The issue of abandoned land has been foreseen since the commencement of land regulation law, notably the UUPA. According to Article 15 of the LoGA, "sustaining land, especially enhancing its vitality and Every individual, legal body, or agency with a formal link to the property, taking into consideration the financially disadvantaged party, is responsible for preventing harm."

Based on these provisions, it is clear that the legal consequences or consequences of not being empowered on land following the circumstances or nature of its use, the purpose of providing benefits to the land in question will not be fulfilled and cause losses to the community and the State. This condition is a condition of land that is "abandoned" and subsequently causes The rights to the land will be legally extinguished as a result of the legal implications. It is following and as regulated in Article 34 letter (e) of Law Number 5 of 1960 which states: "The Right to Use Business is abolished because it is neglected".

As a concrete form of anticipation of the emergence of the phenomenon of abandoned or "abandoned" land, this has encouraged the Government to bring it into order through its legality, namely issuing the Instruction of the Minister of Home Affairs (Mendagri) Number 2 of 1982 concerning Control of Land in Urban Areas by Business Enterprises who are not used/abandoned. All of this is a form of implementation of the Decree of the Minister of Home Affairs (Mendagri) No. 268/1982 concerning Policy Land that is reserved for and/or managed by companies: Principles for Controlling/Utilizing It controlled with Building Use Rights (HGB) and Use Rights (HP).

The legal product in the form of the regulation referred to in its implementation cannot be carried out fully and optimally. As a result, its implementation must undergo various changes. Even for this purpose, the substance of the regulation has been increased in the form of a government regulation product, Specifically, Regulation (PP) Number 36 of 1998 Governing Vacant Land Control and Use.

Various efforts to control that have been launched by improving and making changes and improvements In the stages of implementing this control, in the type of regulations and legislation as the legal basis, which been for more than 3 (three) years, have not produced a maximum and satisfactory result. To respond to these conditions, the highest state institution at that time, namely the People's Consultative Assembly, made a special decision regarding and to better bring order to various issues related to land on a wider scale. The product of the stipulation in question is Decree Number IX/MPR/2001 concerning Agrarian Renewal and Natural Resource Management.

"Agrarian reform" is defined as "a continuous process of structuring, controlling, possessing, using, and employing land resources in the pursuit of legal clarity, security, justice, and wealth for all Indonesians," according to Article 2 of TAP MPR No. IX/MPR/2001.

As a form of concretization of the planning and declaration of this agrarian reform, in 2010, the Government issued Government Regulation (PP) Number 11 of 2010 concerning "Controlling and Using Vacant Property" This new Government Regulation is a renewal and replacement of PP No. 36/1998.

The reasons or considerations for the issuance of PP No. 11 of 2010 are basically:

- a. Based on the provisions of Article 27, Article 34, and Article 40 of Law Number 5 of 1960 concerning Land rights are revoked, among other things, under the Basic Regulations on Agrarian Principles. because they have been neglected by the holder of the right.
- b. At this time, ignoring land is causing rising inequalities in people's social, economic, and welfare aspects, as well as lowering the environment's condition, thus it is vital to restructure the control and usage of abandoned land.
- c. Regulatory items such as PP No. 36 of 1998 may no longer be utilized as a reference in describing the control and usage of abandoned property, and must be replaced in light of current circumstances.

In PP No. 11 of 2010, there is no definition or concept of land which has been abandoned. The said Government Regulation only confirms the purpose of controlling abandoned land as stated in Article 2, namely "Land that has the status of rights, Specifically, property rights, building use rights, cultivation rights, use rights, and management rights that are not cultivated, used, or exploited in accordance with their state or nature, as well as the purpose or justification for giving rights."

Notwithstanding, the provisions of Article 2 above have been excluded, as stated in Article 3: "There is an exception for the object of controlling abandoned land on land with Ownership Rights or Building Use Rights on behalf of and land regulated by the state, either directly or indirectly, but has the status of or not yet the status of Government Property which is not intentionally used by the circumstances and or the nature and flora and fauna and flora and fauna and flora and fauna and fauna and flora but also.

Abandoned land is defined under the regulations of Article 1 point (6) of the Regulation of the Chairman of the National Land Administration of the Republic of Indonesia Number 4 of 2010 concerning "Processes for Controlling Abandoned Land." This provision defines "soil which has been awarded protections under the law by the state in the form of property ownership, agriculture rights, constructing use privileges, utilize privileges, and management rights or basic regulate atop gray soil that is not fostered, isn't used, or not used by by the situations or the essence and intent of giving rights or the grounds for their regulation" as "estate for which the state has given privileges such as owning, expansion, building usage, use rights, and associated rights, or fundam" as "land which has been granted rights by the state in the form.

To be able to assess a land in an abandoned state, there are several requirements and conditions or categories according to Article 2 PP No. 11 of 2010 as the author quoted above previously. What needs to be noticed is that although the provisions of PP No. 1/2010 (Article 2) have determined that land can be indicated as an abandoned land only if there is a basis for control over the land above it. However, in the provisions of Article 17 paragraph 2 letter (f) Perka BPN Number 4 of 2010 in conjunction with Perka BPN Number 9 of 2011, it is determined that land for which an application for rights has not been submitted for the basis of land tenure on it can be designated as abandoned land by the Head of the Land Office. Region.

A land that is considered derelict land has previously been found to have been assessed as derelict land. Thus, there are stages in the regulation of abandoned land as determined by the

criteria by Article 4 to Article 13 of PP Number 11 of 2010. In essence, it is to divide the stages before the issuance of the determination of abandoned land, namely:

- a. Identification and research by the Head of the Provincial BPN Regional Office and by the Committee (Article 4 to Article 7);
- b. Prior warning by the Head of the Provincial BPN Regional Office to the Rights Holder (Article 8), and;
- c. Determination of abandoned land by the Head of BPN on the recommendation of the Head of the Provincial BPN Regional Office (Article 8 to Article 13).

What is important to understand is that the notion of abandoned land must be separated from a piece of land that has been labeled as "abandoned" or neglected. As a result, there are significant differences between the two. As defined in Article 1 Number 5 Perka BPN No.4/2010, Land that has not been recognized and investigated and is fairly suspected of not being farmed (assigned), not being used, or not being exploited as a result of the circumstances, nature, and purpose of the granting of rights, or the foundation for its control.

The difference between "abandoned land" and "land that is indicated to be abandoned" lies in whether or not identification and research have been carried out on the ground that is not grown, exploited, or utilized as a result of the conditions or the nature and purpose of the right's grant. Thus, before a "determination" of land in the above condition, the land in question cannot be declared as a form of "abandoned land" but still has the status of land which is "indicated as abandoned land".

From these two understandings, the determination without being abandoned lies in the identification and research process which according to the author is actually not very significant, but only lies in the processes and procedures alone and this makes the control of abandoned land not maximized.

Empowerment of abandoned land seen in the framework of national law reform in the land sector and agrarian reform, in particular, is a mandate that must be realized in the form of an integrated policy.

Legal reform in the land sector is essentially a renewal of the main ideas or concepts that become the basic ideas which are then implemented in the form of legal rules and regulations and the form of current agrarian reform.

As it is known that the agrarian reform that is being launched today is divided into 2 (two) forms of understanding, namely:

- a. Agrarian Reform in terms of land distribution, namely distribution of land to farmers who do not have land resources in real terms, and;
- b. Agrarian Reform in the sense of an effort to overhaul the land system and national land management.

Agrarian reform, in a wide sense, involves the implementation of agrarian law reform, the repeal of imperial grants on land and the abolition of international rights; a progressive end to feudal exploitation; and the elimination of foreign rights and concessions made by imperial powers on land. restructuring of land ownership and control; and preparing for supply and use of world, liquid, and the resources of nature contained therein in a planned manner, according to ability and ability.

The product of Presidential Regulation (Perpres) Number 86 of 2018 concerning Agrarian Reform, which was issued on 24 September 2018, is a form of the government's commitment to carry out asset management and access to agrarian (land) that is the mandate of TAP MPR No. IX/MPR/2001 and UUPA.

With agrarian reform, controlling and then empowering abandoned land becomes an inseparable synergy and must be implemented properly, considering the importance of land

which has now become and is the source of the lives of most Indonesian people. It is caused by the following factors, namely:

- a. Scarcity of land, namely the limited area of land that is relatively static, faced with the need for land due to the increasing number of people;
- b. There is a process of losing land, due to industrial needs both for factories and housing so that agricultural land has been reduced;
- c. The process of land fragmentation is either due to the transfer of rights through buying and selling and or inheritance;
- d. The increasing number of unemployed in agriculture resulted in the bargaining position of the cultivators against the landowners being weakened;
- e. The concentration of existing plots of land in several people with hundreds of hectares, which are not cultivated according to the purpose of acquisition and designation, thus causing a lot of abandoned land.

The granting of land rights must be accompanied by obligations and by the decree granting the rights granted. Therefore, every holder of land rights is prohibited from making it abandoned, not functioning, or ineffective by its designation. If the holder or owner of the right makes the land abandoned, then following the legal regulations on which it is based, the right should be revoked and confirmed as land controlled directly by the state. Departing from this, the Government will then distribute the distribution of the abandoned land so that it can be maximally empowered to suit the people's requirements in general for land. Because after all the consequences of neglecting the land will only be the cause of the gap in the social, economic, and welfare aspects of the people.

4 Conclusion

According to the above description, it can be inferred that abandoned land is detrimental to the present government's attempts to transfer land to the community in order to achieve agrarian reform's goals and objectives. As a result, the goal of regulating abandoned land is to reshape and reorganize land usage in order to make it a source of universal human benefit. As a suggestion, it can be stated that the Government should maximally intensify the control, arrangement, and empowerment of abandoned land to then make it into productive land by simplifying the implementation mechanism of controlling and identifying what is meant by abandoned land and land indicated as abandoned so that it can provide maximum results in controlling and empowering the abandoned land in the future.

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