

THE EFFECTIVENESS OF LAND BANKS IN LAND MANAGEMENT IN INDONESIA

May Susan Meliala^{1*}, Triono Eddy², Adi Mansar³

^{1, 2, 3}Universitas Muhammadiyah Sumatera Utara, Indonesia

^{*1}email: maysusanmeliala@gmail.com

Abstract: Land Bank is one of the important resource management tools to increase the productivity of land use. The methods carried out in the land bank are market control and stabilization of local market land. The land bank guarantees the availability of land for various development needs in the future, efficiency of the APBN/APBD, reducing conflicts in the land acquisition process and reducing the negative impacts of land liberalization. Law Number 11 of 2020 concerning Job Creation with the aim of managing and distributing land in Indonesia to create comprehensive and fair economic development progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government has established a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The wealth of the land bank agency is separated state wealth. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform.

Keywords: Land Bank, Land Management.

Introduction

According to Hadi Arnowo citing Al Zahra, a land bank is defined as a land policy in which the government, through a government agency or selected independent institution, is given the authority to first acquire unused, problematic, or undeveloped land that has the potential to be developed. Furthermore, the government is responsible for managing and regulating the land temporarily, before finally redistributing it for the public interest in accordance with government programs, both short-term and long-term (Arnowo, 2022).

A Land Bank is an entity tasked with managing land assets, which includes both procurement, maintenance, and development of land for various purposes such as infrastructure, housing, and national strategic projects. The main objective of the Land Bank is to optimize the utilization of land owned by the state or that has been obtained through various means such as purchase, grant, or cooperation.

A Land Bank is one of the important resource management tools to increase the productivity of land utilization. The methods used in land banks are market control and stabilization of local market land. Land banks guarantee the availability of land for various development needs in the future, efficiency of the APBN/APBD, reducing conflicts in the land acquisition process and reducing the negative impacts of land liberalization (Limbong, 2013). Land management in Indonesia has developed, the presence of Law Number 11 of 2020 concerning Job Creation initiated the birth of an agency that functions to manage land in Indonesia, namely the Land Bank Agency. Article 125 paragraph (4) of Law Number 11 of 2020 concerning Job Creation explains that "The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land".

Literature Review

1. Land Bank

Land Bank is an entity tasked with managing land assets, including procurement, maintenance, and development of land for various purposes such as infrastructure, housing, and national strategic projects. The main objective of the Land Bank is to optimize the utilization of land owned by the state or that has been obtained through various means such as purchase, grant, or cooperation.

The Land Bank operates not for purely commercial purposes, but rather for efficient and effective management to support operational activities and infrastructure development and generate income that will be used for operational activities and further capital development. In carrying out its functions, the Land Bank also needs to coordinate with various parties, including the central and regional governments, to ensure that land management activities are carried out in accordance with existing regulations and planning.

The purpose of establishing a land bank is to ensure the availability of land for national development activities, both those carried out by the government and the private sector, so that they are not hampered. Land banks have an important role in supporting land policies, assisting regional development, and providing land efficiently. Conceptually, quoted from Marizal's opinion, this Land Bank institution is designed to accelerate development, both physically and administratively, by providing land title documents for land transactions. In practice, land banks are expected to overcome challenges in infrastructure development, such as land shortages, reduce government cost burdens, overcome land release problems, and reduce the negative effects of land speculation that is often associated with land mafia.

In terms of implementation, land banks serve as entities that regulate public land procurement, which is vital for national infrastructure projects, and support the social and economic functions of the Indonesian people. According to Limbong, the function of land banks is to control land prices in the market, eliminate speculation, and support national development through effective spatial planning and land management. Land banks conduct data collection on the lands that will be used as land bank objects. This process includes inventory and collection of complete, accurate, and logical land information data. This function ensures that all land bank activities follow the applicable spatial plan. Land utilization and allocation must be in accordance with the land use plan as part of the related spatial plan. Land banks regulate land ownership so that it is not only focused on one particular community group, but is more evenly distributed.

Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

Result and Discussion

The legal product produced in this case is the formation of a land bank through Law Number 11 of 2020 concerning Job Creation with the aim of ensuring that land management and distribution in Indonesia can create comprehensive and fair economic development

progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government has established a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The assets of the land bank agency are separated state assets. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform. The Land Bank Agency is given as one of the institutions formed by the central government which is given special authority to manage land. The Land Bank Agency is further regulated in Government Regulation of the Republic of Indonesia Number 64 of 2021 concerning the Land Bank Agency. This agency was initially established in the city of Amsterdam, the Netherlands in 1890, and was later implemented in several countries such as Europe, the United States, China and Singapore in 1970. The establishment of a land bank is expected to guarantee the availability of land for development for sustainable public interests. When viewed from the legal aspect, a sense of justice, certainty, and legal benefits are the main goals to be achieved by the land bank agency (Bakri, 2019)..

Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, it states that the Central Government forms a land bank agency, the land bank agency as referred to is a special agency that manages land. The wealth of the land bank agency is separated state assets. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land.

Land management is an activity carried out by a land bank after controlling the land and before distributing the land and can be used by the land bank itself, for example, development for public interest. Development certainly requires land as its main facility. On the other hand, residents also need land as a place of residence and a place of livelihood (Abdurrahman, 1991).

Based on Article 129 of the Job Creation Law (UUCK), land managed by a land bank will obtain Management Rights. Furthermore, regarding the provisions of Management Rights, they are bound by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. The provisions regarding Management Rights in the regulation also apply to land banks as holders of Management Rights. Land bank assets that have been granted Management Rights, then their management is based on cooperation in utilization with other parties or release for the granting of Ownership Rights.

One of the functions of a land bank according to Article 3(1) of PP No. 64/2021 concerning the Land Bank Agency is to distribute land. The purpose of land distribution is that land controlled by the land bank is provided and distributed to the specified parties and through procedures that will be regulated by the derivative regulations of the Job Creation Law. Meanwhile, the provisions in Article 126 of the UUCK state that the land bank agency guarantees the availability of land in order to realize a just economy. This means that land distribution is intended for activities or activities referred to in Article 126 of the UUCK.

The land bank agency is a special agency (*sui generis*) that is different from the Public Service Agency (BLU) and BUMN in the following respects:

- a. Land banks are different from BLU because the wealth or assets of land banks are separated from state assets so that financial management does not use the Government Administration System (SAP). While the similarity is that land banks do not seek profit as mandated by Article 127 of the UUCK, namely that land banks in carrying out their duties and authorities are transparent, accountable, and non-profit.
- b. Land banks are different from BUMN in that in carrying out their duties and authorities they are not profit-oriented. While the similarity is that land bank assets are separated

from state assets and their financial management is subject to the provisions of Financial Accounting Standards (SAK).

Land bank assets must be separated from state assets based on the following reasons:

- a. Flexibility. Land banks must acquire land quickly so that it does not fall into the hands of other parties and manage the land optimally so that when the land is distributed to the designated party it is in a clear and clean condition. For this need, budget management is needed that is separate from state assets so that there are no obstacles in the disbursement of funds.
- b. Continuity. Guaranteeing financing in accordance with the specified plan is very important so that land bank activities run smoothly.
- c. Efficiency and effectiveness. In the implementation of institutions outside the government, the application of the principles of efficiency and effectiveness is required so that the focus and quality of activities are achieved at low cost.

Good governance in land banks will have an impact on the implementation of land banks. Land banks in carrying out their duties and authorities refer to Article 127 of the UUCK, namely being transparent, accountable and non-profit. The implementation of land banks in a transparent and accountable manner shows how they work like corporations or BUMN. While the principle of non-profit is not commercially oriented because there is a main mission of land banks, namely providing land for a just economy. As a basis for the formation of land bank governance, special regulations are needed. Based on the regulations regarding governance, detailed arrangements regarding standards, operations and procedures are regulated in the internal regulations of land banks. Land management is directed to be utilized through cooperation with other parties and to be distributed to designated parties. Land managed by land banks is given Management Rights. Furthermore, land with Management Rights can be utilized through cooperation with other parties and above it can be given Building Use Rights, Cultivation Use Rights or Use Rights. While land to be distributed if it will be used for a just economy, then the release is carried out through procedures determined based on applicable laws and regulations.

Conclusion

Law Number 11 of 2020 concerning Job Creation with the aim of land management and distribution in Indonesia to create comprehensive and fair economic development progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government forms a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The assets of the land bank agency are separated state assets. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform.

Bibliography

- Abdurrahman. 1991. *Masalah Pencabutan Hak-Hak Atas Tanah dan Pembebasan Tanah di Indonesia*, Bandung: Citra Aditya Bakti.
- Bernhard Limbong. 2013. *Bank Tanah*, Jakarta: Margaretha Pustaka.
- Hadi Arnowo. (2022). Peran Bank Tanah dalam Pengaturan Penyediaan Tanah, *Jurnal Inovasi Penelitian*, Vol.2, No.9.

- Koto, I., & Faisal, F. (2021). Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi. *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 4(2), 774-781.
- Muhammad Bakri. 2019. *Urgensi Pebentukan Kelembagaan Bank Tanah Sebagai Alternatif Penyedia Tanah Bagi Masyarakat Untuk Kepentingan Umum*, Malang: Arena Hukum.
- Rahimah, R., & Koto, I. (2022). Implications of Parenting Patterns in the Development of Early Childhood Social Attitudes. *International Journal Reglement & Society (IJRS)*, 3(2), 129-133.
- Simatupang, R. S. A. (2024). Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan. *Jurnal Yuridis*, 11(1), 54-63.
- Zainuddin, Z. (2022). Implementation Of The Change Of The Chairman Of The Labuhan Batu Selatan Regional People's Representative Council. *International Journal Reglement & Society (IJRS)*, 3(1), 11-18.