

CRIMINAL STUDY ON ERADICATION OF LAND MAFIA IN NORTH SUMATRA PROVINCE

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ABSTRACT

The land mafia is a nefarious alliance practice that flourishes due to low public scrutiny and lack of law enforcement. Modus the land mafia's modus operandi includes conspiring with the agency that issues the title deeds, fabricating cases, and pretending to conduct sale and purchase transactions. Evidence of rights, fabricating cases, and pretending to conduct sale and purchase transactions. The Constitution of the Republic of Indonesia at the beginning of the formation of the country's foundation has been regulated regarding land, this can be seen in the provisions of Article 33 paragraph (3) of the 1945 Constitution which has 1945 which has rescued the state that everything related to land as part of the earth, water to land as part of the earth, water and natural resources contained therein in Indonesia must and contained therein in Indonesia must and must be managed and utilized for the greatest prosperity. utilized for the greatest prosperity of the Indonesian people. The research used is a type of empirical legal research or called field research, namely examining the applicable legal provisions and what happens in reality in society. What happens in reality in society in this study approach used in solving the problem is to use statute approach. The results showed that in handling land mafia cases, The National Land Agency expressly established the Technical Guidelines for the Prevention of Land Mafia Eradication Number: 01/JUKNIS/D.VII/2018 on the Prevention and Eradication of the Land Mafia. In the implementation point based on the technical guidelines, the prevention of land mafia is carried out by the establishment of a Task Force for the Prevention and Eradication of the Land Mafia, both at the Ministry level, Regional Office level and Land Office level, and socialization of land mafia prevention and eradication and socialization.

Keywords: Eradication, Mafia, Land.

A. Introduction

Indonesia is a legal country that has regulated land matters in order to protect society from various problems that may occur. Law can be seen as something that acts as a solution when there are violations that are said to be contradictory or in conflict with the law that occur in society. Land is also a gift from Allah SWT which has an

important function for human survival and is a means of supporting human life, both socially, economically and culturally to create a just and prosperous society. Seeing the importance of this land, complete regulations are needed regarding use, utilization, ownership and making laws related to it based on Pancasila, as stated in the 1945 Constitution of the Unitary State of the Republic of Indonesia as the State Basis. The Indonesian people's rights to land have a communalistic nature, as confirmed in Article 1 paragraph (1) of the Basic Agrarian Law (UUPA). The enactment of the UUPA has resulted in a revolution that has changed the rationale and basis of colonial agrarian politics, namely efforts to renew the colonial land system which was originally dedicated to the interests of foreign capital, replacing it with a national land system dedicated to the interests of the people.¹

The aim that has been initiated by the UUPA is to reflect the national basis of agrarian law, meaning that formally the UUPA has indeed been declared to apply to the nation and people of Indonesia covering the territory of the Republic of Indonesia.² Legal recognition regarding land ownership in its development cannot guarantee the occurrence of various kinds of land conflict issues in society, dissect land crimes and land mafia, convey that land cases have an impact on the status and function of land, namely land does not become productive, land cannot be used as intended. Supposedly, the reduction in state treasury income comes from taxes, and the social impact of this is that land ownership is unclear, resulting in illegal occupation by the community. Everyone agrees that the land mafia must be eradicated.

Land mafia is an evil alliance practice that thrives due to low public supervision and minimal law enforcement. The land mafia's methods include conspiring with agencies that issue proof of rights, fabricating cases, and pretending

¹ Awang Hardian Sadono. Penanganan Masalah Pertanahan Berdasarkan Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 21 Tahun 2020 tentang Penanganan dan Penyelesaian Kasus Pertanahan. Rampai Jurnal Hukum. Vol. 2, No. 1. 2023.

² Rahmat Ramadhani. 2019. Dasar-Dasar Hukum Agraria. Medan: Pustaka Prima, halaman 23.

to carry out buying and selling transactions. The land mafia still shadows land governance in Indonesia. Various loopholes are exploited for certain purposes, one of the most frequently found is falsification of land ownership documents.

Crimes in the land sector are receiving special attention from various parties. Not only by the public, eradicating crime in the land sector is also a priority for the highest state institutions, the President and the DPR RI. Even Indonesian President Joko Widodo has given special instructions to law enforcement officials.

The emergence of various problems regarding land shows that the use, control and ownership of land needs to receive attention from the government. The rise of the land mafia in Indonesia, especially in North Sumatra Province, means that institutions or agencies in the land sector should increase efforts to prevent and take action against land mafias, with the many cases of land mafias with various modus operandi being quite worrying, especially as the losses resulting from their actions are very large. Therefore, serious attention is needed to eradicate the land mafia.

B. Research Methods

A research cannot be said to be research if it does not have a research method.³ Research methods are one of the factors of a problem that will be discussed.⁴ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

C. Analysis And Discussion

1. Legal Regulations Regarding the Eradication of Land Mafia in North Sumatra Province

Crimes in the land sector are receiving special attention from various parties. Not only by the public, eradicating crime in the land sector is also a priority for the

³ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁴ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

highest state institutions, the President and the DPR RI. Even the President of the Republic of Indonesia, Mr Joko Widodo, has given special instructions to law enforcement officials. However, it is not only law enforcement institutions that have been instructed to eradicate the land mafia, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has also taken part since 2017 by forming an Anti-Land Mafia Task Force. Therefore, the steps taken by the government in eradicating the fight against the land mafia, with support from the DPR RI and the Corruption Eradication Commission of the Republic of Indonesia, are the right actions to achieve legal certainty in the land sector and also ensure law enforcement for perpetrators of the land mafia so that legal certainty is achieved in the land sector.⁵

The land mafia has a very large role in land misappropriation, including colluding in determining or changing land use. Land mafia law enforcement cannot be carried out partially but requires integrated and comprehensive involvement involving all institutional elements related to the land office, including academics. In enforcing this law, consistent and sustainable political will from the government is needed, meaning that it is not temporary or temporary; for example, forming an Illegal Sweep Team which has broad duties, functions and authority in anticipating and dealing with illegal levies that occur within government agencies. Due to the huge negative impact of the land mafia's actions, the handling must be more intensive by involving the Corruption Eradication Commission (KPK) to carry out repressive actions using the arrest operation (OTT) pattern. Because this institution has sophisticated instruments and equipment for disclosing cases of legal violations.

In handling land mafia cases, the National Land Agency has firmly established Technical Guidelines for Preventing Land Mafia Eradication Number: 01/JUKNIS/D.VII/2018 concerning Land Mafia Prevention and Eradication. In the implementation points based on these technical instructions, prevention of land mafia

⁵ Yunawati Karlina, "Pemberantasan Mafia Tanah Dengan Menggunakan Instrumen Hukum Pidana Di Indonesia" *Jurnal Ilmiah Ilmu Hukum Universitas Bina Bangsa*, Vol 2. No. 1. Januari 2022

is carried out by establishing a Task Force for the Prevention and Eradication of Land Mafia, both at the Ministry level, Regional Office level and Land Office level and socializing the land mafia issue in the juridical dimension which also still has problems.

In an interview conducted at BPN KANWIL SUMUT with Mr. Febby Richard Immanuel L. Tobing Technical Instructions of the Ministry of Agrarian Affairs and Land Number 01/JUKNIS/D.VII/2018 regulate the mechanism for eradicating the land mafia. In the Technical Instructions of the Ministry of Agrarian Affairs and Land Affairs Number 01/JUKNIS/D.VII/2018 concerning the Prevention and Eradication of Land Mafia, there is no penalty mechanism. This is an opportunity for land mafia perpetrators to be able to escape freely because in the research process, legal studies and the legal process for suspected land mafia perpetrators there is no detention mechanism, even though a land case takes a long time.

2. Modus Operandi of the Land Mafia in North Sumatra Province

The development of social life has changed many economic, cultural, political and legal realities. This development can be used to carry out acts that are against the law. which attacks various interests of law, people, society and the state. Crimes are increasingly occurring in various fields, especially land issues. This is also inseparable from various social, environmental and other aspects, especially the economic aspect, so it does not rule out the possibility of various modes of criminal acts, namely the land mafia, which is increasingly developing over time with various modes of crime. The mode of crime itself is the method used by the perpetrators to commit the crime. By knowing the mode of crime, you will get a clear picture of the form of crime committed by the perpetrator.

While the definition of modus operandi in the scope of crime according to Dirjosisworo is techniques or methods that have special characteristics of a criminal in carrying out his evil deeds, modus operandi comes from Latin, meaning procedure or way of moving or doing something, in traditional criminal law, a person is said to be criminals or criminals if the person has committed a punishable crime in the past.

Land mafia cases are increasing in the province of North Sumatra, such as the example of a popular case in North Sumatra presented by Mr. Febby Richard Immanuel L. Tobing, namely: The involvement of North Sumatra provincial government agencies in handling conflicts over the issuance of cultivation rights in the name of PT. Supra Matra Abadi (PT.SMA) in 2022 which will be held in Teluk Panji Plantation Village, Kampung Rakyat District, South Labuhanbatu Regency between Edy Syahputra, et al as village residents and PT. Supra Matra Abadi.

Based on interviews conducted with BPN officials at the North Sumatra Regional Office, Mr. Febby Richard Immanuel L Tobing, the modus operandi used by the land mafia to illegally control and own land in North Sumatra includes falsifying documents, illegal occupation or without rights (*wilde occupatie*), seeking legality in court, fabricating cases, corporate crimes such as embezzlement and fraud, falsifying authority to administer land rights, carrying out land sales and purchases as if they were formal, and the disappearance of documents. Through various types of modus operandi, the most common method used by the land mafia is forgery of letters or documents.

Furthermore, another modus operandi of the land mafia is to provoke a small number of people to cultivate or maintain land that is empty or that is being used. The land mafia will claim that a handful of people who use the land have occupied the land and worked on the land for a long period of time to cause land disputes. The land mafia also changes or shifts and even eliminates land boundary markers

and even using the services of thugs to control land objects starting from installing a fence, then padlocking it and building a building on it.

The land mafia is very organized because it uses various work methods, which include using violence and being illegal in carrying out actions to seize land and occupy land that is the target object. Conflicts using violence have the potential to cause victims and there are also subtle-scientific work methods where illegal actions appear to be legal.

Several other issues regarding the land mafia's methods are the issue of implementing the publicity principle contained in the "Permen ATR/Ka. BPN-RI Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL)" contradicts "PP No. 24 of 1997 concerning Land Registration", in addition to the application of the contradictory principle of delimitation which is difficult to implement, thus allowing for falsification of physical and juridical data which is utilized by the land mafia in carrying out its modus operandi.

3. Obstacles and Constraints in Efforts to Eradicate Land Mafia in North Sumatra Province

The complexity of resolving land cases is related to the number of conflict resolutions and land disputes. According to records from the Presidential Staff Office, only 4,031 cases have been resolved out of a total of 10,802 cases handled. In response to this, there are many views to unravel the complexity of problems in land issues.

It is not uncommon for disharmonious conditions/disputes to occur between police investigating officers and investigators at other institutions, and it is certain that this will give rise to negative perceptions regarding the performance of the institutions involved. This right will reduce public trust in law enforcement officers or in the law itself. This occurs because of friction between agencies, especially due to the sectoral egos of each agency/institution and obstacles arise when there is overlap in the duties and authority of each state agency.

The disharmonious condition between law enforcement agencies in handling criminal cases, especially the land mafia in Sumatra, requires improvement to create synergistic coordination between law enforcement officials. As a form of building togetherness/partnership (partnership building), strategies need to be designed to increase coordination between law enforcement agencies.

The budget available to resolve land mafia cases is inadequate because the budget provided each year is still minimal. With a minimal budget, BPN KANWIL SUMUT adapts to the programs that will be implemented. The schedule is made

according to the field, namely the agrarian/land sector and spatial planning as the field that handles land issues. The schedule that has been determined can be changed at any time depending on budget reductions.

Overcoming constraints in terms of budget, the North Sumatra BPN KANWIL will maximize supervision with the budget provided to resolve land conflicts, and also in terms of the budget which has not yet been reduced, which is actually important because if the funds do not decrease it will be less than optimal in resolving or handling the land mafia. The budget owned by the North Sumatra BPN KANWIL is still limited to resolve land mafia cases, however, with an inadequate budget, the North Sumatra BPN KANWIL continues to maximize land mafia eradication activities by resolving target cases that have been set.

D. Conclusion

In handling land mafia cases, the National Land Agency has firmly established Technical Guidelines for Preventing Land Mafia Eradication Number: 01/JUKNIS/D.VII/2018 concerning Land Mafia Prevention and Eradication. In the implementation points based on these technical instructions, prevention of land mafia is carried out by establishing a Land Mafia Prevention and Eradication Task Force, both at the Ministry level, Regional Office level and Land Office level and providing outreach. Several criminal offenses are the reference for punishment in land crimes, some of which are: Article 167, Article 263, Article 266, Article 385.

The modus operandi used by the land mafia to illegally control and own land in North Sumatra is not much different from the modus operandi in other provinces in Indonesia, including falsifying documents, illegal or unauthorized occupation (*wilde occupatie*), seeking legality in court, fabricated cases, corporate crimes such as embezzlement and fraud, falsifying powers of attorney for land rights, carrying out land sales and purchases as if they were formal, and the disappearance of documents. Through various types of modus operandi, the most common method used by the land mafia in North Sumatra is forgery of letters or documents.

Obstacles and constraints in eradicating the land mafia in North Sumatra, namely, the implementation of activities to eradicate the land mafia requires cross-external coordination, the community lacks awareness of land, limited budgets, evil agreements are supported by weak enforcement of criminal law against the land mafia.

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