

Legal Efforts To Prevent And Eradicate Land Mafia

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ABSTRACT

Land mafias from time to time always study the actions they take to avoid land disputes with conflicts that in reality always violate the law. One of the things they apply is that the action must be carried out by a group of people in a structured, scheduled and carried out with great care. Land mafias also study how to trick victims who will be their targets later. The position of the Anti-Land Mafia Task Force based on the Technical Instructions of the Directorate General for Handling Agrarian Problems and Utilization of Space and Land Number: 01/JUKNIS/DJ-VII/2018 concerning the Prevention and Eradication of Land Mafia, its position is at 2 (two) different levels, namely first, the ministerial level which is appointed and determined based on the decision of the Minister of ATR/BPN and second, the regional office level, which is determined and appointed based on the decision of the Head of the Provincial BPN Regional Office. The Anti-Land Mafia Task Force only plays a role in implementing research, collection, study and analysis of land case data that are suspected of involving land mafia and can only coordinate it with other agencies and delegate the results of handling land cases that are suspected of involving land mafia to the police.

Keywords: Legal Efforts, Land Mafia.

A. Introduction

Land, when viewed from an economic perspective, can be used as an instrument to produce production and assets (both in the industrial, agricultural and commercial sectors). From a political perspective, land is used as a place to consider a person's position in making a decision that is the result of a mutual agreement. Meanwhile, for the socio-cultural aspect, land functions as a consideration and decision-making material in determining the high or low social status of a person as a landowner, and providing a decent place for a person to carry out their daily activities. Finally, from a legal perspective, land is used as one of the foundations for state jurisdiction.

Article 19 of the UUPA explains that to guarantee legal certainty regarding land rights in Indonesia, Government Regulation Number 24 of 1997 concerning Land Registration was made. The purpose of this regulation is to help the Indonesian people by providing legal protection for the community in order to minimize the occurrence of land disputes. Various land problems that exist are often caused by parties who steal land that is not theirs or in other words these parties are called land mafia. Where one of the modes that occurs today is the falsification of data in land certificates. This is because the development that is currently taking place in Indonesia is widespread in various fields.

Land mafias from time to time always study the actions they take to avoid land disputes with conflicts that in reality always violate the law. One of the things they apply is that the action must be carried out by a group of people in a structured, scheduled and carried out with great care. Land mafias also study how to trick victims who will be their targets later. The reason for the mushrooming of land mafia cases until now is because the land can no longer be renewed, especially in Indonesia there is still a lack of tools to develop land functionally, then the high need for land by the community. However, land has a very high economic value. This can be seen from the increasing price of land from time to time, especially in urban areas. This factor creates the desire of other parties or individuals to control irresponsibly by violating the law.¹

In practice, land mafia often use various modes to take over land rights previously owned by others. The mode that often occurs is by falsifying land title documents to then transfer the legality of land rights owned by someone. The actors in the land mafia are land grabbers, village heads/sub-district heads, fake notaries/PPATs, and BPN officials. The land mafia generally works by involving a number of government officials to smooth their actions, including the following land

¹ Dita Dwinanta Garvania Tumangger, Budi Santoso, "Penegakan Hukum Terhadap Praktik Mafia Tanah Sebagai Pembuat Sertifikat Fiktif", NOTARIUS, Vol. 16 No. 2 Tahun 2023.

mafia modes:

1. forgery of legal basis, The basis of the right is a requirement for applying for land rights, namely through buying and selling, grants, inheritance, or physical control for decades. Falsified documents of the basis of the right are used as a basis/argument to sue for land rights through the courts.
2. forgery of power of attorney, Through a fake power of attorney that appears to have been made in front of a notary, the land mafia engineered the creation of legal title documents to transfer the legality of ownership of land rights.
3. Forgery of Resident Identity Cards, By using fake Resident Identity Cards (KTP) as land owners and parties claiming to be KTP owners, land mafia manipulate the creation of legal title documents to transfer the legality of land ownership rights.

B. Research Methods

Legal research is a series of systematic mechanisms in conducting research.² In this case, legal research is conducted to find solutions and answers to a problem that has been determined in the legal issue that is used as the object of research. The research method used to answer the problem. This research is a type of normative legal research.³ This study uses secondary data sources. Secondary data sources, This research data consists of secondary data. Secondary data is data obtained from literature studies that are relevant to this study. Secondary data is "data sourced from literature studies (library research) related to publications, namely library data listed in official documents.

C. Analysis And Discussion

1. Forms of Land Mafia Crime Practices in Indonesia

Land issues have become a complex social problem and require solutions with

² Abdulkadir Muhammad. *Hukum dan Penelitian Hukum*. Cetakan I. (Bandung: Citra Aditya Bakti, 2004), hlm. 57.

³ Jhonny Ibrahim, *Teori & Metode Penelitian Hukum Normatif*. (Malang: Bayumedia Publishing, 2008), hlm. 47

a comprehensive approach. The development of criteria and models of land disputes that are not only limited to administrative land problems that can be handled by administrative law, but the complexity of land conflicts has developed into political, social, cultural realms and is related to issues of nationalism and human rights. When examined, land conflicts that occur are horizontal conflicts and vertical conflicts. Vertical conflicts are the most dominant, namely communities facing the government or state-owned companies and private companies. While horizontal conflicts usually occur between communities.⁴

Land registration needs to be done to prevent conflicts from arising, both vertically and horizontally. In addition, land registration also provides legal certainty for people who have control and rights to land. Land registration itself is carried out with the aim of knowing the status of a plot of land, knowing the owner, what rights are imposed, the size of the area, what it is used for, and so on. This is done to provide legal certainty to land owners by the state. In addition, Article 3 of the PP on Land Registration states that land registration has the purpose of guaranteeing legal certainty and legal protection for rights holders over a plot of land and other rights that are stored to make it easier to prove them as the owner of the rights concerned, therefore a certificate is made as a proof of rights.

The principle of land ownership rights contains the authority, obligations and/or prohibitions against the rights holder in acting on the land owned. The things that are allowed, required or prohibited to be done, which are the contents of the ownership rights, are the criteria or differentiators between land ownership rights contained in agrarian law. In addition, certificates as proof of land ownership rights have strong evidentiary power. However, in practice, there are still many disputes over land ownership due to the emergence of duplicate or even more certificates in a plot of land which can be caused by administrative errors by the National Land

⁴ Nurbaedah Nurbaedah, "Penyelesaian Sengketa Sumber Daya Agraria Pada Tanah Perkebunan Bekas Hak Guna Usaha," *DIVERSI : Jurnal Hukum*, 6.2 (2020): 220–33.

Agency (hereinafter referred to as the BPN Office) or land mafia practices in Indonesia.

Crimes in land matters are currently receiving special attention by various parties, both the public and by high state institutions as state administrators. This is a form of continuation of the Presidential Instruction to Law Enforcement Officers (hereinafter referred to as APH) involving the Indonesian National Police (hereinafter referred to as Polri), the Attorney General's Office of the Republic of Indonesia (hereinafter referred to as Kejaksaan) and the Ministry of ATR/BPN to eradicate land mafia crimes since 2017 with the formation of the Anti-Land Mafia Task Force (hereinafter referred to as Satgas). Land mafia is understood as a criminal act in the land sector that involves several people who help each other and work together to control or take over land rights belonging to others in a planned, structured, and systematic manner.¹⁸ Unlawful ownership and control of land often gives rise to conflicts or disputes. Lack of supervision, law enforcement, and lack of transparency are factors in the rampant land mafia crimes. Then, the apathetic behavior of the community towards land assets in their ownership, creates a loophole for crimes committed by land mafia to be able to control other people's land illegally.⁵

2. Efforts To Prevent And Eradicate Land Mafia

The mechanism for implementing the prevention and eradication of land mafia is as follows: "Collecting information from public complaints or information obtained by the Ministry of ATR/BPN and/or the Indonesian National Police ('Polri') regarding land cases that are suspected of involving land mafia. Conducting coordination meetings to formulate handling steps in the form of a research plan on the necessary matters or data, a plan to collect information from related parties, and a case presentation plan."

Other coordination meetings are also needed to conduct research on cases that

⁵ Dian Cahyaningrum, "Pemberantasan Mafia Tanah," Pusat Penelitian Badan Keahlian DPR RI XII, no. 23 (2021): 1–6.

indicate land mafia with inventory and data collection. The data collected can be in the form of: "physical data and legal data; court decisions, minutes of examination from the Police, the Indonesian Attorney General's Office, the Corruption Eradication Commission or other documents issued by law enforcement agencies/institutions; data issued or published by authorized officials; other data related to and can influence and clarify the issues of disputes and conflicts; and/or witness statements.

Officials assigned to carry out the field activities are required to record the results in a Minutes of Meeting known to the Head of the Task Force. Furthermore, the Minutes of Research Activities which contain data that is considered sufficient must be conducted an external case conference involving sources from various agencies to find out whether or not there is an indication of land mafia in the case. The Anti-Land Mafia Task Force conducts a "review of the research results and information and the results of the initial case conference. Then conduct an internal Task Force case conference to determine conclusions and recommendations, the results of which are stated in the Minutes of Meeting and signed by the entire Task Force. If in this case conference initial evidence of land mafia involvement is obtained, the Task Force submits it to the Police.

The entire implementation of the Anti-Land Mafia Task Force activities is reported to the "Minister of ATR/BPN through the Directorate General of Handling Agrarian Issues, Space and Land Utilization at the ministerial level, and to the Head of the Provincial BPN Regional Office at the provincial level. The Anti-Land Mafia Task Force report will be the subject of discussion in the Coordination Meeting between the Ministry of ATR/BPN and the National Police Headquarters.

D. Conclusion

The position of the Anti-Land Mafia Task Force based on the Technical Instructions of the Directorate General for Handling Agrarian Problems and Utilization of Space and Land Number: 01/JUKNIS/DJ-VII/2018 concerning the Prevention and Eradication of Land Mafia, its position is at 2 (two) different levels, namely first, the

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