



Optimization of Agrarian Reform For The Settlement of Abandoned Land Based on The Theory of Usefulness

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Abstract—In the context of upholding justice, the Decision of the Banjarmasin State Administrative Court Number 25/G/2020/PTUN. BJM made the rejection of the application for postponement of the implementation of the object of dispute submitted by the plaintiff irrelevant. However, the decision points to the need for further action to improve substantial justice, such as through the imposition of case costs on the plaintiff. Regulations on agrarian reform, which are regulated in Government Regulation Number 20 of 2021 about the Management of Abandoned Areas and Lands, are still not close to being consistent with the theory of land distribution and the principle of utility. A more in-depth analysis of the complexity of implementing agrarian reform focus on the need for a higher holistic approach that takes into account the legal, administrative, social, and historical aspects of agrarian reform. Only with a comprehensive approach, agrarian reform regarding the settlement of abandoned land will achieve the goal of equitable land distribution and optimal use for the community.

Keywords— *Agrarian Reform, Abandoned Land, Legal and Administrative Aspects.*

I. INTRODUCTION

The land refers to one of the agrarian resources that takes an important role in human life, both as individuals and community groups. If as an individual, land can be used by humans for living, place, and/or land to work. With good management, land and other agrarian resources are used to help the needs of communities in improving their welfare[1] The increasing need for land to fulfill the needs of settlement, both the need to live and as a place of business, land is one of the main things because it can be a source of livelihood for humans.[2] Land is seen as a source of prosperity for the people to sustain economic growth.[3]

When a lot of land is needed while the availability of land is very limited, it will cause inequality in land ownership which is one of the crucial issues in the land scope. In reality, the level of land demand is not proportional to the availability of land, where the need for land is certainly a priority in primary needs so many people do not have their land. Ironically, there is a lot of uncared and unmaintained and even abandoned soil. The issue of abandoned land results in a gap in land ownership, control, use, and productivity of land. Due to unequal tenure, agrarian inequality arises when some groups of people can own most of the land rights, and some groups of people only have a small part of the land rights.[4]

One of the problems of abandoned land occurred at PT. Mitra Megah Profitamas domiciled in Banjarmasin is a Legal Entity based on Article 11 Paragraph (3) of the deed of Establishment of PT. Mitra Megah Profitamas Number 35 dated March 10, 2000. Regarding the object of the right, it is the holder of the Building Rights Certificate Number: 01003, dated December 27, 2020, Survey Letter Number: 03/BTL/2006 dated September 22, 2006, covering an area of 2,150 M². The object of the dispute is located in Batulicin Village, Batulicin District, Tanah Bumbu Regency, South Kalimantan Province on behalf of PT. Megak Profitamas Partners.[5]

The object of the dispute is the relic of Hj. Kasmah with evidence of the Statement of Physical Control of the Land Plot (Sporadic) dated July 14, 2003, and registered at the Batulicin Village/Village Office with Number: 108/SPPFBT/VIII/2003. The object has been controlled by Hj. Kasmah or the Plaintiffs since 2003. Continuously

until 2020. There are no boundary signs installed by PT. Mitra Megah Profitamas, as a result of the Plaintiffs not knowing the existence of the object of the dispute and on the other hand, the signs of wanting to build housing on the land of the object of the dispute starting from 2006 or from 2010 to 2020 have never been seen by anyone.[5]

According to the State Administrative Court Decision Number 25/G/2020/PTUN. BJM stated that PT. Mitra Megah Profitamas as the legal owner of 2,150 M² of land located in Batulicin Village, Batulicin District, Tanah Bumbu Regency, South Kalimantan Province according to the Building Rights Certificate (HGB) Number 01003 on behalf of the right holder of PT. Mitra Megah Profitamas. Giving a penalty for the Plaintiffs to pay the cost of the dispute examination case in the amount of Rp.14,425,000.00. [5] It needs to be seen how application of agrarian reform should be towards the ideal settlement of abandoned land based on the theory of usefulness and object of dispute based on the State Administrative Court Decision Number 25/G/2020/PTUN. BJM.

II. LITERATURE REVIEW

A. Agrarian Reform of Abandoned Lands

Agrarian reform is a necessary process to provide social justice and address land ownership gaps. This is important for rural development. Agrarian reform is a concept that has been studied and applied in various countries, even on the Asian continent. Results of this literature review were conducted to summarize the results and challenges identified in previous studies on agrarian reform, especially the reuse of vacant land. Abandoning land is an issue that occurs currently and agrarian reform can be recognized as one of the strategic ways to overcome this case in many countries, such as Indonesia. Agrarian reform is a concept that contains the redistribution of ownership and distribution among those who have not enough agrarian resources. This means by providing fields to farmers without being deprived of some parts. It is one of the required tools to raise the income of rural societies and promote a sustainable development. [6]

B. Challenges in the Implementation of Agrarian Reform

Various issues have been recognized within the application of agrarian reform, particularly on abandoned land. One of the main cases is the lack of empowerment of coordination between government and the social operation system. This case is clearly evident in the enactment of agrarian reform. Another important obstacle is the restricted participation of the community in the agrarian reform process. This restricted participation leads the programs not being able to effectively fulfill the rural communities' needs. [6]

C. Government roles in Agrarian Reform

The government's role is important in the accomplishment of agrarian reform. To overcome this problem of abandoned land and provoke sustainable land utilization, effective government's policies and programs are essential. The Indonesian government has decided to take down this problem, which one is the Basic Agrarian Law Number 5 of 1960.[7]

III. METHODS

The research methodology applies a normative juridical approach, which comprehensively analyzes the principles and regulations maintaining agrarian reform on the settlement of abandoned land. This methodology includes a systematic examination of applicable laws, doctrines, and regulations to identify deficiencies, propose legal modifications, and provide valid perspectives to improve the enforcement of policies correlated to the application of agrarian reform on the settlement of abandoned land. In addition, literature research and application of a juridical approach were utilized in this study, a normative perspective is implemented to evaluate the regulatory framework in enforcing and enacting of agrarian reform. The analysis includes relevant legislation. With a focus on its provisions, implementation, and effectiveness. This research aims to deeply understand the legal and policy framework for the implementation of agrarian reform, with the need for a holistic approach that considers legal aspects, Administrative, Social, and agrarian history. This comprehensive qualitative analysis aims to provide implementable recommendations for policymakers and bookmarker practitioners to achieve the goal of equitable land distribution and optimal benefits for the community.

IV. RESULT AND DISCUSSION

A. Agrarian Reform in the Control of Abandoned Land

The question of the relevance and policy direction of the UUPA in the modern era is in the main spotlight. There are two different approaches to the policy direction, reflected in the call to reform or even abandon the UUPA. The basic principles of the UUPA, such as state ownership of land and respect for the rights of indigenous peoples, are the foundation for social justice in the land sector. However, in practice, there is a tendency for policies that favor a small group and pay less attention to the needs of the broader group. The national policy of Article 33 paragraph (3) of the 1945 Constitution requires that land belongs to the Indonesian nation, and is

managed for the prosperity of the people, with central control in regulations and land-related determinations, which have not been significantly delegated to local governments. [8], [9]

Traditionally, rural development and agriculture were considered elements of *kunci* in the modern *stepisasi*. In general, modernization is considered to consist of four global stages: first, increased investment to increase productivity, second, technology transfer from developed countries to developing countries to improve technology in production and services, third, the emergence of large economies and organizations on a large scale, and finally, the growth of the urbanization process. On that basis, developing countries are built through planting assistance, and foreign capital, to process. to become modern societies like countries that have been considered advanced, So, modern Western countries are seen as models. [10]

In its implementation, development based on the paradigm, modernization shows several striking characteristics. The main focus on economic growth is the main priority where all resources are allocated without considering the actual beneficiaries of such growth. While the state has a big role in various aspects, both as a producer, facility provider, and regulator, this paradigm also promotes a market economy. Planning is the center of thought, but it is an authoritarian top-down, focusing on strong forces, with views that tend to be fragmentary, sectoral, less holistic, and less participatory in the planning process. [10]

In the implementation of Agrarian Reform, there are often several obstacles that can interfere with the process. One of them is resistance from parties who feel threatened or harmed by the change, which occurs as a result of the reform's Lack of understanding among various layers, of society regarding goals, and mechanisms. Agrarian reform is also a significant challenge, both in the community, farmers, apparatus, and social elites Careful management of operational funds is also a source of problems, especially because there are still corrupt practices that have not been resolved In addition, various technical obstacles are often related to the design and design of reforms, which are important factors in the smooth implementation of the program. [11]

Accommodating some prerequisites initially aims to anticipate and deal with obstacles that may arise in the Agrarian Reform process Hope for the positive impact of Agrarian Reform, covering several significant aspects First, the policy aspect, where legal certainty related to *bak-bak*, people, especially farmers is the main focus. Second, the social aspect is expected to be able to create a fairer and more equitable social structure in the community. Meanwhile, psychologically. It is hoped that the atmosphere of social euphoria and family security can encourage the motivation of farmers to manage their agricultural businesses better In addition, from an economic perspective. Agrarian reform is expected to be the initial foundation for increasing overall production Finally, from a political point of view, *tuivanuya* is to ease social tensions and prevent potential conflicts or violence that may arise in society. [12]

Agrarian Reform is expected to be a solution to the inequality of land ownership and the improvement of farmers' welfare, but it can harm its implementation The establishment of the prerequisites in this concept aims to overcome obstacles that may arise Although these expectations are only interpretations and the reality can be different, it is important to anticipate negative impacts from the beginning Potential impacts include a decrease in agricultural production due to difficulties, adaptation of landowners to become managers of new agricultural businesses, In addition, differences in quality, implementing officials can create local conflicts. In other countries, land redistribution has the potential to create speculation and conflict Nonetheless, *kousen*. Reform, Agrarian is designed to reduce negative impacts with the establishment of prerequisites at the beginning of the Understanding of potential negative impacts is the key to implementing these reforms effectively and sustainably.

In the term of the control and utilization of abandoned land, coordination between the National Land Agency, Regional Governments, and related institutions in the arrangement of the land is very important to avoid overlapping authorities. To utilize abandoned land, especially by the National Land Agency (BPN), the government is advised to formulate policies related to technical guidelines for the utilization of abandoned land. This direct to *guarrante* that abandoned land can be utilized optimally to increase the people's *ssocio-economic* conditions. Furthermore, the government needs to provide training to its officials to avoid potential conflicts with owners of *tubs* on land who do not manage it properly.

B. Implementation of the Theory of Utility to Abandoned Land Conflicts at PT. Profitamas Megah Partners

In the context of law, Bentham's theory of utilitarianism has influenced the development of law by emphasizing the importance of considering the social consequences and happiness of society in designing laws and policies. This approach has been the basis for many legal and policy theories that seek to promote the well-being of society.[13]

In the case of PT. Mitra Megah Profitamas regarding the ownership of abandoned land in Banjarmasin, Jeremy Bentham's utilization theory approach can provide an interesting point of view. Bentham's theory of utility assesses the morality and goodness of an action based on how much happiness or benefit it produces. In this context, the main considerations will relate to the benefits resulting from the ownership and use of the land. From the point of view of utility theory. The existence of PT. Mitra Megah Profitamas as the legal owner of the land on the one hand offers benefits in the form of legal certainty related to ownership and potential legal land use.

However, Bentham's theory of utility also leads to the concept of maximum pleasure for as many people as possible. In this case, the physical possession that has been going on since 2003 by Hj. Kasmah or the Plaintiffs is also an interesting aspect to evaluate from the perspective of utility. Although not the rightful owner according to the legal documents on record, the use of land by other parties over the years raises questions about the social benefits that have resulted from the possession of the land.

In analyzing this case with Bentham's utilitarian theory approach, it is necessary to consider the social benefits and happiness created by the ownership of abandoned land. Recognition of legal ownership according to recorded legal documents is indeed important in terms of legal certainty, but it is also necessary to consider the social benefits and positive impacts that can be produced by land use on the surrounding community. This analysis from the perspective of benefits can help in evaluating more holistically, where the interests of the wider community and contribution to shared happiness are also important factors in assessing the ownership and utility of abandoned land.

In the term of PT. Mitra Megah Profitamas related to abandoned land in Banjarmasin, elements of the theory of usefulness can be identified. Utilization theory in the context of abandoned land considers optimizing land use for social and economic benefits. From the perspective of utility theory, the object of the dispute shows two parties claiming ownership of the land. On the one hand, PT. Mitra Megah Profitamas has the rights to the land recorded in the Building Rights Certificate (HGB) Number 01003. However, on the other hand, Hj. Kasmah or the Plaintiffs evident that physical control over the land establish 2003.

The analysis from usefulness side has paid attention on the optimal utilize of abandoned land. Although PT. Mitra Megah Profitamas has legal documents, it is necessary to consider how the use of the land can provide broad benefits to the local community. While Hj. Kasmah or the Plaintiffs show physical control of the land for many years, which according to the theory of usefulness can be an argument for the consideration of fair redistribution of land for social benefits. The court decision that gave legal force to PT. Mitra Megah Profitamas emphasizes the legality of land ownership. However, from the perspective of utility, it is also necessary to consider how the use of the land can provide broader social and economic benefits to the surrounding community, regardless of the legal ownership recorded.

This context illustrates the conflict between legally recorded ownership rights and ongoing physical exploitation by other parties. In the context of utilization theory, it is important to consider how optimizing land use can provide broad benefits to local communities, given the important role of land in social and economic well-being.

V. CONCLUSION

The relevance and timeliness of the UUPA in the modern context are crucial, with two different approaches to the UUPA: reforming or strengthening the UUPA. Agrarian reform consists of four global stages: increasing investment to increase productivity, technology transfer from developed countries to developing countries to improve technology in production and services, the emergence of large economies and organizations in scale, and the growth of the urbanization process.

In the implementation of Agrarian Reform, several obstacles can be identified, such as resistance from political parties, lack of understanding between various levels of society, operational problems, and technical obstacles. The positive side of Agrarian Reform shows a positive impact on legal aspects, social structures that benefit the societies, and better encouragement to the farmers in their business. Agrarian reform as the solution to reduce land disparities and boost entrepreneurship, however it has a negative impact as well. Some potential negative impacts emerged, such as increasing production costs and decreasing productivity, which can be degraded by overcoming population needs and promoting development which is more inclusive and sustainable.

Bentham's utilitarianism has affected the development of law by considering the social consequences and happiness in drafting laws and policies. Bentham's theory of utility evaluate the morality and positive side of an action according to how far it can produce happiness or benefit. In the case of PT. Mitra Megah Profitamas related to abandoned land in Banjarmasin, the element of utility theory can provide an interesting point of view. Utilization theory in the context of abandoned land considers optimizing land use for social and economic benefits. The analysis in terms of usefulness highlights the optimal utility of abandoned land, which highlights the optimal use of abandoned land. This context illustrates the conflict between legally recorded ownership rights and ongoing physical exploitation by other parties. In the context of utilization theory, it is important to consider how optimizing land use can provide broad benefits to local communities, given the important role of land in social and economic well-being.

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