

LEGAL ANALYSIS OF BALANCED HOUSING USING THE LAND BANKING SYSTEM IN JAKARTA

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ABSTRACT

In the application, there are several inhibiting factors in applying this balanced residential concept, including related to the lack of land availability so that the price of available land becomes expensive and currently not many developers are applying the concept of balanced residential, especially in the Jakarta area. In a housing area, it is definitely determined by the price of land in addition to the location, including the completeness of facilities in the housing area. Land prices in Jakarta city centers are already relatively high so that many developers only build expensive housing for the upper middle class. To prevent this, the government created the Land Bank concept. The main purpose of Land Banking is to acquire land which is then used for the benefit of the welfare of the community, especially in meeting the needs of a house. However, in practice, the Land Bank Concept is still not widely recognized in the wider community, especially housing developers, so there are still few developers who apply the Balanced Residential Concept using the Land Bank System, especially in Jakarta because the rules and regulations of the Land Bank System are relatively new. And if people want to sell or buy a land or residential land then they will look for services in brokers or property developers only.

KEYWORDS *Balanced housing, Land Bank, Land Management Rights*



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INTRODUCTION

A settlement will develop inevitably followed by the growth of the economy in various fields, therefore there needs to be a special handling related to the lack of fertility of a land, as well as floods, and the loss of flora and fauna in the wild including the disruption of ecosystem balance. Growth in the economic sector is not matched by growth in other fields, for example related to the availability of quality human resources, the availability of adequate urban infrastructure facilities, and the availability of livable housing and settlements for the community. Whereas

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all people have the right to live in prosperity both physically and mentally, which is stated in the Law of the Republic of Indonesia (1) Year 1945.

Every Legal Entity in Indonesia that makes residential buildings is required to apply housing with a balanced residential concept which is stated in 34 paragraph (1) Number 1 2011 Housing and Settlement Areas. In its implementation, there are several factors that hinder the implementation of the concept of balanced housing, including the lack of land availability so that the price of existing land becomes expensive and so that now there are still very few developers (pemaju) who apply the concept of balanced housing, especially in the Jakarta area. Land prices are largely determined by location, access, including the completeness of existing facilities in a residential area. Land prices in the city center of Jakarta are already quite high, so many developers build elite housing for the upper middle class only.

Land can be a forum for the unification of social status in a society of love of life and living. For some handful of humans, land has different purposes and in its development land is often seen from an economic angle. Land ownership also gives social status to the community. The meaning of land for farmers is certainly different from the meaning of land for land workers or for observers of the surrounding environment. For farmers, the meaning of land is closely related to the level of soil fertility. Land value refers to the concept of productivity given to land. The more fertile the land or the more productive the land is cultivated, the higher the value of the land.

The need for all people for a space causes an increase in the quality of life of the community which can automatically also affect the increase in the need for land in a certain area. To prevent this, the government created the Land Bank concept. The establishment of the Land Bank is a system and concept regulated in Articles 125-129 of Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 64 of 2021 concerning the Land Bank Agency, and Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of the Land Bank Agency, Presidential Regulation Number 133 of 2022 concerning Rights, Financial Rights and Facilities of Structural Officials of the Land Bank.

The term Land Bank is derived from two terms including Land Banking and Land Bank. Land Bank refers to an institution, a legal entity that is public in land management. While Land Banking is a manifestation of an institutional activity of the Land Bank itself. The term Land Banking when translated into Indonesian means "Land Bank". According to Article 1 point (1) of Government Regulation Number 64 of 2021 concerning the Land Bank Agency, states that the Land Bank Agency, hereinafter referred to as the Land Bank, is a special body (*sui generis*) which means a legal entity in Indonesia whose formation is carried out by the central government whose authority is given specifically for land management.

According to article 6 of Government Regulation No. 64 of 2021 Concerning the Land Bank Agency, the origin of the acquisition of land in the land bank can be from land determined by the government or land originating from other parties. According to article 7 of Government Regulation No. 64 of 2021 Concerning the Land Bank Agency, land originating from government-decreed land includes:

1. Former land rights;
2. Abandoned areas and land;

3. Forest area release land;
4. Embossed land;
5. Reclaimed land;
6. Ex-mining land;
7. Small island land;
8. Land affected by spatial planning change policies; and
9. Land that has no tenure on it.

Meanwhile, land originating from other parties, according to article 8 of Government Regulation No. 64 of 2021 concerning the Land Bank Agency, including originating from:

1. Central Government;
2. Local Government;
3. State-Owned Enterprises;
4. Regionally Owned Enterprises;
5. Business Entity;
6. Legal Entity; and
7. Society.

However, in practice, the Land FBanking concept is still not widely recognized in the wider community, especially housing developers, so there are still few developers who apply the Balanced Residential Concept using the Land FBanking System, especially in Jakarta because the rules and regulations of the Land FBanking System are relatively new. And if people want to sell or buy a land or residential area, they will only seek the services of a broker or property developer.

RESEARCH METHOD

The method applied in this research is normative. Which consists of the principles of law, research on legal systematics, research on the level of legal synchronization, legal history research, and also comparative legal research. So that these aspects of the law can be studied and understood both related to the rules, application, or its impact on society. The research specifications are descriptive analytical, meaning that by way of describing the applicable laws and regulations then connected and applied with existing legal theories including also in the application of positive law related and related to the above problems. Besides making a description of the existing object then becomes a problem, then analyzing the existing data includes experiments in drawing conclusions which are also not conclusions that already exist.

RESULT AND DISCUSSION

Land Banking system to overcome land constraints to create balanced housing in Jakarta.

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The main purpose of the LandBanking system is to acquire land which is then used for the benefit of the welfare of the community, especially in meeting housing needs. LandBanking institutions have a scope of authority and responsibility that plays an important role in each process. In this case, the institution responsible for overseeing land bank companies both publicly and privately is the National Land Agency (BPN) as an organ of government implementation in the land sector. As an institution engaged in the field of land, land banks can carry out a number of functions of the National Land (BPN), including:

1. Coordination of policy, planning and programs in the field of land in Indonesia;
2. Implementation of land stewardship, agrarian reform and arrangement of special regions in Indonesia;
3. Supervision and control of land tenure in Indonesia;
4. Cooperation with other in Indonesia;
5. Implementation and implementation of policies, planning and programs in the field of land in Indonesia;
6. Community empowerment in the field of land in Indonesia; and
7. Management of data and information in the land sector in Indonesia.

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Land rights that are usually managed by the Land Bank, which are granted in the Land Management Rights (GHPL) according to article of the Government Regulation Number 64 of 2021 concerning the Land Bank, consist of:

1. Business Rights;
2. Building Rights;
3. User Rights.

The difference between pure (HGB) and (HGB) on Hak Pengelolaan (HPL) is as follows:

1. (HGB) means that the land on which the apartment is built belongs to the developer. The term of the (HGB) purely according to Article 35 paragraphs (1) and (2) concerning the Regulation of the Basic Principles of Agrarian Law or abbreviated "UUPA" has a validity period of years and can be extended by 2 times years so that the validity period reach 70 years.
2. (HGB) above Hak Pengelolaan (HPL) means that the land built on the not the property of the developer, but there is a collaboration between the developer and other parties as the owner of the land. The period of (HGB) on the Right of Management (HPL) according to 37 (1) of Regulation No. Concerning Rights, Rights, Flat Housing and Land, with a duration of 30 can be extended for 20 years and be extended again for 30 years that the validity period can be up to 80 years.

In general, the acquisition of land in a land bank can be done through 3 (three) stages, including the following:

A. Provision of a Land

The provision of a land can be done by way of sale and purchase, exchange, and so on. Activities in this provision include planning, looking at physical land conditions, looking at land status, including plans for the application of land purchases. In addition, there also needs to be a permit in the provision because the permit functions for administration in the implementation of regional development.

B. Maturation of a Soil

The stage of maturation of a land is very important because it determines the value of land and visual in the community, including investors to buy or rent land, which is seen and determined from the economic value of the land and the economic value of the land is influenced by several factors such as the status of land ownership, ease, benefits, certainty and facilities provided.

C. Distribution of a Land

Before doing land distribution, of course, it must be done with careful preparation in the data, among others, about the amount of land that is the object of the land bank, the length of time needed for the maturation of a land, the percentage of available land, the method of distributing the land.

Practice of providing land for balanced housing in Land Banking

Private land banks have been widely implemented in a number of developed countries, especially for various investments in commercial projects. In Indonesia, the practice of land banks has also been quite widely practiced by private companies for long-term investment purposes. It's just that, conceptually, the institution of private land banks is not yet widely recognized. In the world of investment, investors need land to carry out their investments. That means, the availability of land is an absolute requirement for the implementation of investment. The need for land for private companies is not only for the property (housing) business which continues to increase rapidly, but also for various investment interests in a broad sense. In practice so far, land availability has always been an obstacle, both for the development of infrastructure that supports investment and for investment activities themselves. Land for investment purposes is related to economic development such as the development of industrial estates, trade centers, real estate, and business centers. Private land banks also have the potential to enhance public-private cooperation schemes such as infrastructure, plantation, and livestock development. The private land bank referred to in this discussion is a land bank owned and operated by individuals, groups, cooperatives, companies and or privately owned business groups for various profit-oriented investment activities. Private land banks are open to anyone and any private business entity, of course with an economic scale varying according to the ability of capital and other resources owned.

For medium-sized business entities, land investment can also be directed to various medium-scale investment interests such as building shop houses, offices, warehouses, recreational facilities, *life style* centers such as *club houses*, cafes, supermarkets, trade centers, apartments, malls, offices, and others. The source of land for privately owned land banks can come from individual property, community property, or even company property. Community-owned land on a large scale, for example, is used for investment in the housing sector (*real estate*), plantations, industrial estates, and business districts. But there are also companies that buy land from other companies that have land stock. In the property sector in Indonesia, many large developer companies have land banks projected for future business

development such as: Ciputra Group; Bumi Serpong Damai; Podomoro Land; Lippo Land; Sinar Mas; Bakrie Land and others. Bank for areas to create independent residential areas is conducted by several companies such: Sinar Mas Land; PT. Bank Negara Indonesia; PT.Intiland Development In 2013, Sinar Mas developed the 1,200-hectare Karawang International Industrial City (KIIC) and 1,430-hectare Greenland International Industrial Center (GIIC) residential areas land bank for investment refers to a land bank institution that is projected to benefit from an increase in the value or price of land

Along with population growth and investment that continues to increase, in big cities including in Indonesia the need for land in the suburbs will certainly continue to increase along with the increasing number of human development. The increasing need for urban land will affect the increase in land prices significantly. Many large companies also invest money in land, both local, national, and multi-national companies. For large companies, land banks are projected as large investments in the future, for example for trade centers, business areas, plantations, and so on Including large companies that apply the investment land with the aim of obtaining large profit from the difference between the price he bought and the price he sold. Regarding the development of the city, the investment of land on the edge of the city has been carried out by several companies. For example, the development of the independent city of Lippo Cikarang (Bekasi), Bandar Pelancongan (Cibubur), and Bandar Bunga (Depok). In the coming years, Jakarta will no longer be the only metropolitan city in the western part of Java Island. The kingdoms of West Java and Banten are now heading towards the development of the cities of Bogor, Depok, Bekasi and Tangerang into metropolitan areas that accompany Jakarta.

In areas outside Java, land requirements also continue to increase in line with industrial growth driven by the implementation of basic speed and regional economic development. This is strengthened by the government's seriousness to develop superior indigenous-based industries. This step is one of the efforts to strengthen the competitiveness of the manufacturing industry that is capable in the future. Growth centre in the industrial sector are production centres that must be run efficiently and be able to produce highly competitive products. Industrial activities in industrial growth centre must be based on comparative advantages or original sources owned by the region. For this reason, there must be a key industry as a driver The proximity to existing indigenous resources will reduce transportation costs and develop the economy of the region which will lead to the economic growth of the country as well.

CONCLUSION

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Regulation Number 64 of 2021 concerning the Land Bank Agency, and Presidential Regulation Number 113 of 2021 concerning the Structure *and* Implementation of the Land Bank Agency, Presidential Regulation Number 133 of 2022 concerning Rights, Financial Rights and Facilities of Structural Officials of the Land Bank.

In its application, there are several factors that cause the difficulty of applying this balanced residential concept, including related to the lack of available land which becomes an expensive existing land price and until now there are still not many developers who apply the concept of balanced housing, especially in the Jakarta area. The determination of the unit price of land in urban areas is influenced by location, then access, including the facilities available in a home area. In urban centers, land prices are already high, so many developers are reluctant to build simple housing, only medium and luxury housing for the upper middle class. And to prevent this, the government created a concept called Land Banking.

The Land Bank in its application can be run by a public legal entity or a private organization or a mixture of both. In Indonesia, a public Land Bank can be applied to various development needs that are in the public interest. If one or more private actors take the initiative to fund the Land Bank, a private Land Bank is born. Thus, a private Land Bank can be run by one person or a private company (national or foreign).

Complete regulations and information disseminated outside related to land banks will greatly facilitate the implementation of land banks in achieving the vision and mission as a legal entity in the provision of land in Indonesia. Given that the land bank is a legal entity Indonesia formed by the central government which is given special authority in land management. Therefore, there needs to be a wider introduction to the existence of the land bank both to developers and the public so that the Land Bank system in question can overcome land limitations to create balanced housing in Jakarta.

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