

Strengthening Regulation In Conflicts Between The "Surat Ijo" Holder / Land Use Permit (Ipt) With The Government Of Surabaya City As The Implementation Of Agrarian Reforma

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Abstract - Land tenure / ownership in Surabaya is marked by a unique phenomenon of Surat Ijo, namely the settlement of some city residents on state land. Entering the Reformation era (1999), most residents no longer adhere to applicable rules. Thus, solidarity arises from the community of residents who live on the Surat Ijo land which then forms a mass organization. The organization is making efforts to obtain ownership rights to the land itself. This is what causes social conflict between the two. Various resolution / resolution efforts have been carried out starting from mediation to the litigation path at the highest court and have yet to be resolved. The enactment of Surabaya City Regulation Number 6 of 2014 concerning the Release of Asset of the Surabaya City Government and Surabaya Mayor Regulation Number 51 of 2015 concerning the Procedures for the Release of the Asset of the Surabaya City Government, it has not even been able to realize the conflict resolution between the Surabaya City Government and the people holding the Land Use Permit (IPT) or "Surat Ijo". Because these regulations can actually burden the community with the obligation to pay compensation for the acquisition of land rights in accordance with the agreement. The purpose of this writing is to provide regulatory reinforcement for increasing the rights of Surat Ijo / IPT holders to become ownership rights on individual land in the city of Surabaya as a manifestation of the implementation of Agrarian Reform. The research method used in this paper is the normative legal research method. Normative legal research conducted by reviewing the laws and regulations and other literary materials. This normative research uses a statute approach and a conceptual approach. This writing, tries to understand and explain the context of control, ownership, and conflict over the Surat Ijo in Surabaya. As a conclusion, the existence of Surat Ijo as an incarnation of the land rent system in the colonial era, it has had an impact on all aspects of the lives of residents, ranging from social, economic, political, to cultural or psychological aspects. In addition, within the framework of efforts to achieve conflict resolution changes in land use permits or "surat ijo" are required, for this reason it is necessary to involve, cooperate and coordinate between the various ministries concerned.

Keywords- Surat Ijo, state land, resolution, conflict, Surabaya

I. INTRODUCTION

Considering to the letter a of Law Number 11 Year 2011 concerning Housing and Settlement Areas that every

person has the right to live in physical and spiritual prosperity, to live, to have a good and healthy environment, which is a basic human need, and which has a very important role and strategic in forming the character and personality of the nation as an effort to develop Indonesian people as a whole, self-identity, independent and productive. Human needs for shelter [1] become a basic need that must be owned by every citizen, but in this case not all residents are able to have their own home. This is due to the increasingly limited amount of land which results in higher land prices. Especially on lands with strategic locations or close to urban areas so that many residents choose to buy on the edge of the city or outside the city.

Not all Surabaya residents who have a place to live in Surabaya hold proof of ownership of their house and land [2] in the form of Certificate of Ownership, Right to Use or Right to Use as referred to in Law No.5 of 1960 concerning Basic Regulations on Agrarian Principles (hereinafter referred to as UUPA). Some residents in Surabaya own houses by only holding a Land Use Permit (IPT) meaning that residents only own the buildings, but the land belongs to the Surabaya City Government, where residents rent the land from the Surabaya City Government by paying a levy annually. Based on Article 1 number 7 of Surabaya City Regulation Number 3 of 2016 concerning Land Use Permits. That Land Use Permit, hereinafter abbreviated as IPT, is a license granted by a Mayor or Officer appointed to use the land and does not constitute granting of usage rights or rights over other land as stipulated in the UUPA. IPT is what is often referred to as "Surat Ijo". The Surabaya City Regional Regulation concerning Land Use Permits has been revoked and declared invalid by the Surabaya City Regional Regulation No. 3 of 2016 concerning Land Use Permits.

The existence of the "Surat Ijo" drew a lot of protests from residents because residents are each year burdened to pay a fairly high levy in addition to citizens' obligations to continue to pay Land and Building Tax (PBB). The Surat Ijo is seen as not giving a sense of justice because it does not guarantee legal certainty for land holders as mandated in

Article 19 of the UUPA which later gave birth to Government Regulation Number 24 of 1997 concerning Land Registration as a substitute for Government Regulation Number 10 of 1961 concerning Land Registration. The case of surat ijo is a phenomenon that occurs today, which can not be separated from the history of the Indonesian people, especially in terms of land governance. The paradigm of land rent in Surabaya City is based on Surabaya City Regulation No. 22 of 1977 concerning Land Use Permit this is an indication of the remaining spirit of colonialism in the era of independence. People as tenants and Surabaya City Government as the party renting of the land. So, it is inevitably the legislation that has drawn protests from residents of the Surat Ijo.

The beginning of this conflict was due to differences in perceptions between the Government of the City of Surabaya and residents of the Surat Ijo. This difference in perception lies in the notion of ownership of former "Gementee Soerabaja" lands. Surabaya City Government perceives the former private land "Gementee Soerabaja" is land that is controlled by the state. The Surabaya City Government considers that the land of the former colonial era or the land of Surat Ijo is the right of the state as natural wealth which basically will be used for the prosperity of the people. Therefore, the Surabaya City Government issued Surabaya City Regulation No. 1 of 1997 concerning Land Use Permits (IPT). This regulation gives certainty that the green land letter is an asset of the Surabaya City Government and can attract levies or rent to the tenants, in this case residents of green paper, so as to increase the original income of the Surabaya City area. This makes the main problem faced by the residents of the green permit over land ownership that does not get legal certainty as the right to ownership of the land. Giving rise to a conflict between the City Government of Surabaya and the citizens of the Surat Ijo. However, the Surat Ijo residents also experienced oppression from the Surabaya City Government on the basis of Perda No. 1 of 1997. The oppression is in the form of seizure and pressure, because the land that has been owned and inhabited by residents for decades is claimed as belonging to the municipal government, then residents are required to pay rent on the land as a form of pressure. So that it is a trigger for conflicts that occur as a basis for the disappointment of the Surat Ijo residents to the Surabaya City Government. [3]

This Surat Ijo phenomenon is not in accordance with the ultimate goal to be achieved by the implementation of Agrarian Reform based on Article 17 of the Loga, namely the use of land for the greatest prosperity of the people in the sense of happiness, prosperity and independence in society and the country's law state that is independent, sovereign, fair and prosperous, as stipulated in Article 2 paragraph (2) of the BAL.

According to Boedi Harsono there are five programs in Agrarian Reform, namely: [4]

1. Renewal of agrarian law through legal unification with a national concept and the provision of legal certainty guarantees
2. Abolition of foreign rights and colonial concessions on land
3. End the feudal suction gradually
4. Change the ownership and control of land as well as the legal relationship related to land exploitation in realizing the distribution of prosperity and justice

5. Planning the supply and allotment of the earth, water and natural resources contained therein, and their planned use with carrying capacity and capabilities

In an effort to realize the ideals of Agrarian reform and resolve conflicts between the holder of the Surat Ijo with the City Government of Surabaya, the City Government of Surabaya issued Surabaya City Regulation Number 6 of 2014 concerning the Release of Land Assets of the City Government of Surabaya (hereinafter referred to as Regional Regulation 6 of 2014) and Regulations The Mayor of Surabaya Number 51 Year 2015 Regarding The Procedure for the Release of Surabaya City Government's Asset Land (hereinafter referred to as Perwali 51 Year 2015). Based on the Regional Regulation and the Mayor's Regulation, the Surabaya City Government, with the approval of the Surabaya Regional House of Representatives, has the authority to take action to release land that has been issued by IPT based on a request from the holder of IPT (Surat Ijo).

This requires a new perspective to formulate ways to resolve conflicts and recommend strengthening regulations with a spirit of accelerating the implementation of agrarian reform. The background that has been presented above is formulated the problem of how the framework for strengthening the regulation of increasing the rights of holders of the Ijo / IPT Certificate into Ownership of Individual land in the city of Surabaya as a form of Implementation of Agrarian Reform?

So it is hoped that the results of this research can be useful for related parties, such as the Surabaya City Government, Surabaya City DPRD, Ministry of Agrarian Affairs and Spatial Planning / BPN, including being beneficial for land law academics, historical science, sociology, anthropology, and science academics other social / humanities.

II. RESEARCH METHODS

The research method used in this paper is the normative legal research method. Where is normative legal research conducted by reviewing the laws and regulations and other literary materials. This normative research uses a statute approach and a conceptual approach. The data used are secondary data which is legal material. Legal material is information or correct information about the object of research consisting of primary legal material, secondary legal material, and tertiary legal material. [5]

This normative jurisdiction is carried out by studying books, literature reading materials that support and relate laws as a legal review of the rules that are considered in accordance with written legal research. This normative research is carried out on matters that are theoretical principles of law, legal basis, and legal concepts. [6]

III. RESULT AND DISSCUSION

The struggle of the people who hold a license for land use permit (IPT) Surabaya which was collected in the container "Movement of the Warrior Remove the Letter of Ijo (GPHSI)", after the 1999 reformation in order to obtain a solution of land ownership rights have not yet brought the results they expected. The community had filed a lawsuit against the Surabaya City Government (Surabaya City Government) in 2007 to the Surabaya District Court, but the suit was rejected by the Surabaya District Court. Even at the cassation level, the Supreme Court won the Surabaya City

Government as stipulated in the Supreme Court's decision No. 1471K / plt / 2011. [3]

Based on the recapitulation of the data of Surabaya City's Ijo / IPT holders as of January 2018, there were a total of 48,657 persil, land area, 8,928,252 m², spread across 31 sub-districts of Surabaya City. The data also shows that the highest distribution of Ijo / IPT holders in Surabaya City is:

1. Gubeng District, 12,672 persil covering an area of 2,177,224 m²;
2. Wonokromo District, 8,903 persil covering an area of 1,370,226 m²;
3. Wonocolo District, 5,826 persil covering 1,009,485 m²;
4. Tegalsari District, 3,689 persil covering an area of 557,161 m²;
5. Tambaksari District, 3,190 persil covering an area of 392,460 m²;
6. Bubutan District, 2,848 persil covering an area of 476,360 m²;
7. Simokerto District, 2,570 persil covering an area of 369,711 m²;
8. Dukuh Pakis District, 2,137 persil covering 703,777 m²;
9. Sawahan District, 1,622 persil covering an area of 429,325 m²;
10. Semampir District, 1,485 persil covering 222,860 m².

In an effort to resolve the conflict between the holder of the "Surat Ijo" with the City Government of Surabaya, the Surabaya City Government has issued Regional Regulation 6 of 2014. The release of IPT or "Surat Ijo" is made possible with the prior approval of the Surabaya Regional House of Representatives. However, not all Surat Ijo can be released by the Surabaya City Government. Based on Article 3 of Law 6 of 2014, that the object of release is land that has been issued by IPT with the following criteria:

- a. IPT designation is housing with the use for residential houses;
- b. the applicant is an IPT holder for 20 (twenty) years in a row;
- c. IPT is still valid;
- d. maximum IPT area of 250 m² (two hundred and fifty square meters);
- e. only one persil can be released for those who have IPT more than one persil;
- f. not in dispute / problem; and
- g. not included in development planning carried out by the Regional Government.

Furthermore, Regional Regulation 6 of 2014 on Article 5 explains that:

1. Application for release of land submitted in writing to the Mayor or appointed official.
2. An application as referred to in paragraph (1) must fulfill the following requirements:
 - a. photocopy of valid IPT;
 - b. proof of payment of user charges for last year's land use;
 - c. show valid Resident Identity Card, and
 - d. a statement of ability to pay all costs incurred as a result of a waiver request.

The application for the release of the land must first obtain approval from the Surabaya City Council. After there was an agreement from the Surabaya Regional House of

Representatives, an agreement was made between the Surabaya City Government and the intended applicant.

Based on Article 6 paragraph 2 of Regulation 6 of 2014, that the Agreement referred to in paragraph (1) includes:

- a. Compensation payment agreement;
- b. Land release agreement.

Release of land is an activity of transferring regional property in the form of land assets of a Regional Government to the holder of a Land Use Permit through the provision of compensation in the form of a sum of money. These regulations have not yet yielded satisfactory results for the community holding IPT or "Surat Ijo", because these regulations have burdened the community with the condition that compensation for ownership of land at a minimum Selling Value of Tax Object (NJOP) is even greater. Therefore, it is understandable if until now there has not been a single community that holds a Green Ijo / IPT certificate that has managed to or managed to obtain an increase in their rights to ownership rights over land.

Differences in perceptions of regulatory references, which cause prolonged conflict between the people holding IPT or the "Surat Ijo" with the Surabaya City Government, have now entered into the political and socioeconomic domain. There are indications that most people holding IPT or "Surat Ijo" letters do not want to fulfill the obligation to pay fees. Meanwhile, in the Presidential Election and Legislative Choice 2019 the conflict was made by politicians to gain votes of support, by spreading the promise of "exemption of retribution" and the release of IPT or "Surat Ijo" for free. Agrarian conflicts / disputes between people holding IPT or "Surat Ijos" with the Surabaya City Government regarding the demand for the release of municipal assets to be private property of residents who hold Ijo / IPT Letters, are urban agrarian conflicts that have lasted for decades, but have not yet found a solution that can accepted by all parties (win-win solution).

Agrarian reform is the solution to the land problem in Indonesia. Since the issuance of Presidential Regulation No. 86 of 2018 concerning Agrarian Reform on September 24, 2018, this Regulation officially became the legal umbrella and the main basis for implementing Agrarian Reform in Indonesia. This Presidential Regulation reinforces the National Agrarian Reform Program which had already existed and was arranged in the year 2017 Government Work Plan (RKP).

The Agrarian Reform priority programs compiled by the Presidential Staff Office (KSP), which was formed based on Presidential Regulation No. 26 of 2015 are as follows:

The priority stage of strengthening the regulatory framework and agrarian conflict resolution; the cycle at this stage starts with:

1. Identifying and verifying cases of structural agrarian conflict in various strategic sectors;
2. Analyzing and compiling legal opinions and recommending the resolution of agrarian conflicts cases;
3. Reviewing the validity of the rights / business licenses and changing the boundary area;
4. Coordinating and supervising together with ministries / institutions / agencies / related parties in carrying out recommendations for resolution of agrarian conflict cases;

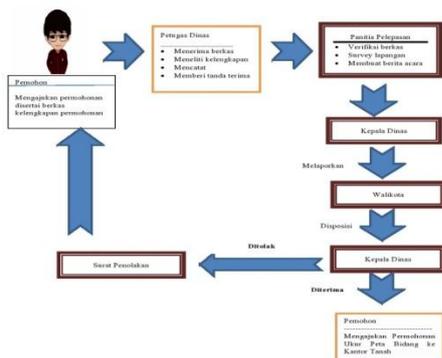
5. Strive for mediation and other Alternative Dispute Resolution (ADR) to accelerate the resolution of agrarian conflicts in all strategic sectors;
6. Reviewing laws and regulations for conflict resolution and supporting the implementation of Agrarian Reform.

Current conditions (actual), for people who hold IPT or "Surat Ijo" who wish to increase IPT or "Surat Ijo" to be Owned Rights over individual land (hak milik), must follow / through procedures / procedures for the service of releasing land assets of the Surabaya City Government issued by the Building Management Office and Surabaya city land. There are 3 stages of the flow procedure for the release of Surabaya City Government's assets as follows: (DPBT Kota Surabaya, 2018)

1. Procedure flow Stage I
2. Procedure flow Stage II
3. Procedure flow stage III

Potential problems and obstacles at each stage can be identified in Phase I, after the community application file has been received in full, the applicant is required to submit an application to measure the field map to the Land Office / ATR. The Land Office / ATR, requires that the applicant submit a Land Rights Certificate as proof of the Surabaya City Government's Rights, in which there is an IPT plot or applicant's "Surat Ijo". Based on the preliminary survey of researchers, the applicant has difficulty in obtaining the Right to Use Certificate or other rights base from the Surabaya City Government. This condition is understandable, because of the total 48,657 persil / IPT persil or "Surat Ijo", the Surabaya City Government only holds 1460 pieces of Land Use Rights (Hak Pakai), 89 Land Management Certificates (Hak Pengelolaan), 177 pieces of besluit rights and 46 plots of state land.

The following is the flow chart of the asset disposal procedures (Phase I)

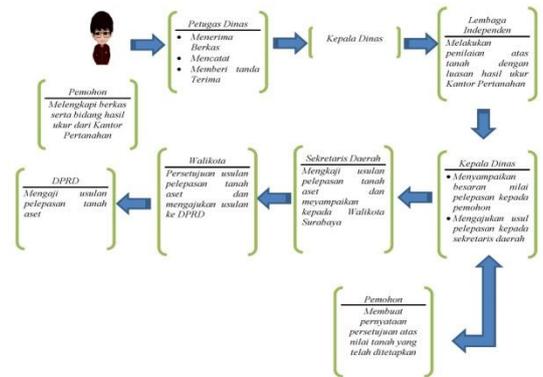


Source : Dinas Pengelolaan Bangunan dan Tanah Kota 2018
Figure 1 Flowchart of Asset Disposal Procedure (Phase I)

In Phase II, suppose the certificate / proof of rights can be fulfilled / submitted by the Surabaya City Government to the applicant and a map of the plot of land (measurement results) can be made / issued by the Land Office / ATR Surabaya. The applicant must wait for the sub-stage of the valuation of the land price with the size of the field map measurement results from the Independent Appraisal Agency (LPI). The LPI is very likely to use NJOP's benchmark towards market prices. The initial survey to the applicant for the release of IPT or "Surat Ijo", NJOP of IPT land or "Surat Ijo" is already above 1.5 million per square meter, it can be

imagined how much the land value must be paid by the holder of IPT or "Letter of Ijo".

The following is the flow chart of the asset disposal procedures (Phase II)



Source : Dinas Pengelolaan Bangunan dan Tanah Kota 2018
Figure 2 Flowchart of Procedures for the Release of Assets (Phase II)

Phase III pattern, after the Head of DPBT of Surabaya City submits the value of the release of land (LPI results) to the applicant, the applicant must make a statement of approval to pay a sum of money (as compensation) for the release of the municipal asset's assets, as an illustration, if the land being applied is 250 m2 then the amount of compensation the community must pay is 250 x Rp. 1.5 million = 375 million rupiah. Amounts that are too large are not different from those of the applicant community being forced to buy their own land (occupation / bezit), that is why the determination of the amount of compensation in Perda No. 16 of 2014 is unfair and very burdensome to the majority of the elderly and or who have occupied their land for more than 20 years. The following is the flow chart of the disposal of assets (Phase III).



Source: Dinas Pengelolaan Bangunan dan Tanah Kota 2018

Figure 3 Flowchart of Procedures for the Release of Assets (Phase III)

Based on and referring to the priority stages of the Government Work Plan (RKP) on Agrarian Reform as mentioned above, *mutatis mutandis* can be compiled and formulated a road map / proposed road map / research plan Strengthening Regulations and Conflict Resolution Between Communities of IPT Holders or "Surat Ijo" with Surabaya City Government As a Form of Implementation of Agrarian Reform, is as follows:

1. Identifying and verifying the number of people holding IPT or "Surat Ijo" that meet the requirements of Surabaya City Regulation No. 16 of 2014 and Perwali Surabaya No. 51 of 2015; and the obstacles / objections of citizens meeting the conditions / requirements that are considered to burden them.
2. Analyzing and compiling legal opinions related to differences in perception of IPT settlement regulations or "Surat Ijo"; as well as recommending the handling of obstacles faced by citizens and municipalities to resolve IPT conflicts or "Surat Ijo".
3. Helps to review the legality of IPT or "Surat Ijo" rights owned by the community members.
4. Coordinating and / or supervising relevant parties both Surabaya City Government c.q Surabaya City Building and Land Management Office, GPHSI, Surabaya ATR Office and other related parties.
5. Empower mediation over alternative dispute resolution (ADR) to accelerate the resolution of conflicts over the release of the municipal government's assets related to IPT holders or "Surat Ijo".
6. Reviewing related regulations, including:

- a. UU no. 1 of 2004 concerning the State Treasury.
- b. PP NO. 6 of 2006 concerning State Property
- c. PP No. 27 of 2014 concerning Management of State / Regional Property
- d. Permendagri No. 17 of 2007 concerning Regional Property
- e. Permendagri No. 19 of 2016 concerning Guidelines for Managing Regional Property
- f. Minister of Religion / Head of BPN No. 9 of 1999 concerning Procedures for Granting and Revoking Rights to State Land and Management Rights
- g. Perda Kota Surabaya No. 2 of 2013 concerning Amendment to Perda No. 13 of 2010 concerning Levies on the Use of Regional Wealth
- h. Perda Kota Surabaya No. 16 of 2014 concerning the Release of Asset Land of the Surabaya City Government
- i. Perda Kota Surabaya No. 3 of 2016 concerning Land Use Permits, Perwali Kota Surabaya No. 51 of 2015 concerning Procedures for the Release of Asset Land of the Surabaya City Government
- j. Perwali Kota Surabaya No. 75 of 2016 concerning Procedures for Calculating Land Use Levies
- k. Perwali Kota Surabaya No. 80 of 2016 concerning the Formula for the Tariff of Leasing Regional Property in the Form of Land and / or Buildings

Based on the matters stated above, that Perda 16 of 2014 and Perwali 51 of 2015 are not able to identify problems that occur between communities holding IPT or "Surat Ijos" with the City Government of Surabaya, on one hand the Government requires payment of compensation for the release of land, while residents ask for the release of the land without compensation payment. It needs to be added, that the basis for applying HPL status [7] is Article 33 Paragraph 3, which implies that the state "entrusts" the authority to manage state land for the greatest prosperity of the people. So, the Surabaya City Government's position on land with hak pengelolaan (HPL) status is more a kind of administrative right than using it to make a profit. In such a perspective, it is clear that the land of green paper is not land owned by the regional government. HPL holders are indeed authorized to use state land, but their main purpose is to fulfill a sense of justice / welfare, especially third parties who are around or on the land.

Whenever there is an understanding like that, actually a green land conflict does not need to occur. The two parties do not need to clash with each other for arguments / arguments over the status of state land rights, or even claim to be the most entitled parties, because both sides are not jurists. City Government as the party that receives the authority to manage, while the residents are users. In fact, both parties (if possible) "are nothing and nobody" about the land of green money. Especially with regard to state land that is still original eigendom status. From a perspective like the one above, the municipal government should not be arbitrary towards the state "deposited goods", either limited to claiming HPL land as regional assets or acting to release / transfer. The City Government cannot autonomously release the land of Surat Ijo as if it were the owner. Ethically and morally, the resolution of land conflicts in Surat Ijos in the form of release must be returned to the giver of authority, namely the state. Of course, through a competent institution, the Ministry of Agrarian

Affair and Spatial Planning and / BPN. Whether later on the land of the greenhouse letter is released or not, it is up to the giver of authority. [8]

So, at least a coordination of three ministries is needed, namely the Ministry of Home Affairs, the Ministry of Agrarian Affairs and Spatial Planning / BPN, and the Ministry of Finance of the Republic of Indonesia. As a form of conflict resolution regarding surat ijo can occur when there is a unity of understanding between residents of the land of green ijo with the Government of the City of Surabaya on land legislation. The efforts made in finding the bright spots of the conflict resolution are needed in order to have a capable and courageous breakthrough, not just to be handled legally, but it requires the involvement of at least three ministries as mentioned above. Therefore, a solution to the land of green letter is sought a solution accompanied by the spirit and principles to uphold justice and prosperity for all Indonesian people as aspired and proclaimed by The Unitary State of the Republic of Indonesia (NKRI).

IV. CONCLUSION

Based on the things that have been stated above, we can conclude the following:

1. Surabaya City Regulation Number 6 of 2014 concerning the Release of Asset Land of the Surabaya City Government and Surabaya Mayor Regulation Number 51 of 2015 concerning the Procedure of the Release of Asset Land of the Surabaya City Government has not been able to identify existing problems, therefore both regulations need to be evaluated including conducting restructuring of the two regulations so that they can provide solutions to these problems.
2. In addition, within the framework of efforts to achieve conflict resolution changes in land use permits or "surat ijo" are required, for this reason, it is necessary to involve, cooperate and coordinate between several relevant ministries, vertically review and synchronize existing regulations .

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