

Juridical Analysis Article 181 Law Number 23 of 2007 Concerning Railways in Ancol Station Until Tanjung Priok Station in North Jakarta

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ABSTRACT

Railways is an integrated system consisting of infrastructure, facilities and human resources, as well as norms, criteria, requirements and procedures for the operation of railroad transportation. The current mode of railway transportation is a necessity both for people who want to travel between provinces and around the capital city of DKI Jakarta and capital buffer cities such as Tangerang, Bogor and Bekasi that use electric trains. The legal basis for Railways is Law Number 23 of 2007 concerning Railways. In Article 181 paragraph it is stated that every person is prohibited from being in the benefit of the railroad tracks, but this is not appropriate because it is in the area of the railroad tracks in the Ancol Station railroad area until the Tanjung Priok Station in North Jakarta, there are many residents who use the area around the railroad tracks to establish a residence for personal interests and place of business. This is contrary to existing laws. So that problems arise, namely: How is law enforcement Article 181 paragraph (1) of Law Number 23 Year 2007 concerning Railways relating to residents who build settlements in the Ancol Station area to Tanjung Priok Station, North Jakarta. The research method used is empirical normative legal research. The research data shows that so Article 181 of Law Number 23 Year 2007 concerning Railways has not been effective, the role and solution of the government have not been maximized

Keywords: Railway, Regulation

1. INTRODUCTION

Railroad Railways including transportation equipment favored by many people around the world even in Indonesia. The ability of railroad transportation that can transport many people together to other places is one factor. In Indonesia itself, evidence that trains become a favorite means of transportation is seen from each year, trains become a means of transportation for some people to return to their original regions in the homecoming tradition.

Even in metropolitan areas such as the capital there is the KRL Commuter Line (formerly known as the Jabotabek KRL, Jabodetabek KRL, or KAI Commuter Jabodetabek) that are used by the capital community and the community around the Jakarta buffer city for activities. KRL Commuter Line is a commuter electric rail service that is operated by PT Kereta Commuter Indonesia, a subsidiary of PT Kereta Api Indonesia (PT KAI). KRL has been operating in the Jakarta area since 1925, until now serving commuter routes in the area of DKI Jakarta, Depok City, Bogor City, Bogor Regency, Bekasi City, Bekasi Regency, Lebak Regency, Tangerang City and South Tangerang City.

PT KAI Commuter Jabodetabek since 19 September 2017 has changed its name to PT Commuter Indonesia is one of the subsidiaries in the PT Kereta Api Indonesia (Persero) environment that manages the Jabodetabek Commuter Railway and its surroundings. KCI was formed in accordance with Presidential Instruction No. 5 of 2008 and the Minister of State Enterprises Letter No. S-653 / MBU / 2008 dated August 12, 2008. Change of name to KCI is stated in the minutes of the General Meeting of Shareholders on September 7, 2017 which has also been approved by the Minister of Law and Human Rights of the Republic of Indonesia for Amendments to the Articles of Association of the Limited Company with the Decree of the Minister of Law and Human Rights Republic of Indonesia No. AHU-0019228.AH.01.02.Year 2017, September 19, 2017.)

The goal is to support and implement government policies and national development, especially in the field of transportation, and then support the provision of goods or services in the field of railways of high quality and which are highly competitive in the domestic and foreign markets.

However, a problem was found, namely the area of the railroad tracks around Ancol Station to Tanjung Priok Station, which should have been used for passing through

the train mode, was used for housing construction and as a residence. Even residents and minors freely walk back and forth around the area of the Railroad Tracks. This is certainly a blessing for the people who live in the area and also contradicts Article 181 paragraph (1) of Law Number 23 Year 2007 concerning Railways which contains:

"Everyone is prohibited:

- a. Being in the railroad benefits room
- b. Dragging, moving, placing, or moving goods on the rails or crossing the railroad tracks; or
- c. Using the railroad for other purposes, in addition to rail transportation. "

Even though Article 199 of Law Number 23 Year 2007 concerning Railways contains:

"Anyone who is in the benefits of the railroad, dragging the goods above, or crossing the lane without rights, and using the railroad for purposes other than railroad transportation that can interfere with railroad trips referred to in Article 181 paragraph (1), sentenced to a maximum imprisonment of 3 (three) months or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah) ".

In fact, the residents who inhabit and reside in the area of the benefits of the railroad from Ancol Station to Tanjung Priok Station, no one has been punished, even there has been omission by the government, based on that law enforcement in Article 181 paragraph (1) of Law Number 23 Year 2007 about Railways not working properly. Therefore this study will examine how law enforcement in Article 181 paragraph (1) paragraph of Law Number 23 of 2007 concerning Railways.

Based on the background description above, the title was raised in the form of this research, namely "Law Enforcement Article 181 Paragraph (1) of Law Number 23 Year 2007 concerning Railways in the Ancol Station Railroad Region to Tanjung Priok Station, North Jakarta"

1.1. Research Methods

Moving Type of research in this study is normative and empirical juridical. Empirical normative research is legal research concerning the application of normative legal provisions (codification, laws) in action on any particular legal event that occurs in society.¹⁾

¹⁾ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, (Bandung: Citra Aitya Bakti, 2004), hlm 134.

2. BACKGROUND

2.1. Results and Discussion

2.1.1 Case Description

Tanjung Priok Station was built on a land area of 46,930 m2 with a magnificent and luxurious 3,768 m2 building area. It has eight platforms so it is almost as big as Jakarta Kota station. Formerly the function of Tanjung Priok Station at that time was not only for the station but also provided accommodation for passengers who would wait for the arrival of ships to continue their journey. The lodging rooms are located on the left wing of the building which is specifically provided for Dutch passengers and Europeans, and is equipped with an underground space which is thought to function as a logistics warehouse. Since Indonesian independence, the Dutch government railroad company was taken over by the Indonesian government which at it's called DKA (Djawatan Kereta Api). Tanjung Priok Station had not been operated since June 1999 when there was a change in the status of PT KAI to Persero and only re-operated on April 13, 2009.²⁾ Ancol Station is a train station located on Jalan R.E. Martadinata, Ancol Village, Pademangan District, North Jakarta. This station stands at an altitude of +4 meters above sea level and is included in the operational area of PT KAI Daerah Operasi 1 Jakarta. This small class station is located on the Jabodetabek Commuter rail line, the Tanjung Priok line, which starts from Jakarta Kota Station to Tanjung Priok Station.³⁾

The problem in this research is the area of the railroad tracks around Ancol Station to Tanjung Priok Station in North Jakarta, which should be used for passing the train mode, is used for housing construction and as a place to live. Even residents and minors freely walk back and forth around the railroad tracks. This is certainly a blessing for the people who live in the area and also contradicts Article 181 paragraph (1) of Law Number 23 Year 2007 concerning Railways which contains:

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²⁾ www.heritage.kai.id

³⁾ Railfans. "Profil Stasiun Ancol (AC), Jakarta Utara", <https://kereta-api.info/profil-stasiun-ancol-ac-jakarta-utara-5365.htm> Diakses pada tanggal 18 Desember 2019.

transportation that can interfere with railroad trips referred to in Article 181 paragraph (1), sentenced to a maximum imprisonment of 3 (three) months or a maximum fine of Rp. 15,000,000.00 (fifteen million rupiah)".

In fact, the residents who inhabit and reside in the area of the benefits of the railroad tracks from Ancol Station to Tanjung Priok Station, no one has been punished, in fact there has been omission by the government, based on that law enforcement in Article 181 paragraph (1) of Law Number 23 Year 2007 concerning Railways are not working properly. Therefore this study will examine how law enforcement in Article 181 paragraph (1) paragraph of Law Number 23 of 2007 concerning Railways.

Residents who are around the area of the Ancol Station railroad tracks to Tanjung Priok Station have different backgrounds. Some used the land of PT Kereta Api Indonesia in the area of Ancol Station railroad to Tanjung Priok Station to become a residence, some made the land of PT Kereta Api Indonesia in the area of Ancol Station railroad to Tanjung Priok Station to open stalls and even tire repair shops. Houses were built to be used as dwellings and even for trading by residents in the area of the railroad tracks, some have been evicted and disciplined, but there are still residents who are still determined to occupy the land of PT Kereta Api Indonesia due to various factors, one of which is economic factors.

Besides that, the settlements used for residents to be used as dwellings even for trading are located along the railroad tracks which are standing on land owned by PT Kereta Api Indonesia Persero (PT KAI). The settlement is very close to the railroad tracks, which are 1 (one) to 2 (two) meters from the railroad tracks, with houses that are semi-permanent and permanent. Settlements along the railroad tracks have been around for a long time. Before the buildings appeared, the land along the Tanjung Priok Station railroad to Ancol Station was in the form of untreated vacant land with uneven ground conditions.

The land is then used by residents to build buildings both for residences and businesses. Railroad border border used by residents to establish settlements is an area that serves as a security and smooth operation of the railroad. With the existence of residential buildings, of course, disrupt the smooth operation of the railroad and is very dangerous for the safety and health of residents given the distance of the building which is very close to the railroad tracks.

The construction of buildings on the railroad has violated the provisions of the restrictions on the prohibition to build or erect buildings near the railroad tracks. These provisions are contained in Article 42 Paragraph (1) of Law Number 23 Year 2007 concerning Railways which states:

- (1) Spaces belonging to the railroad tracks are parcels of land to the left and to the right of the benefits of the railway lines used for securing railroad construction.
- (2) Spaces belonging to the railroad tracks outside the benefits of the railroad tracks can be used for other purposes with the permission of the owner of the lane provided that they do not jeopardize the construction of the railroad and railroad operations facilities.

The elucidation of the article states that the boundary of the railroad's space is the space on the left and right of the railroad's beneficial space, whose width is at least 6 (six) meters. Furthermore Article 44 of Law Number 23 Year 2007 concerning Railways which states:

"The railroad supervision room as referred to in Article 36 letter c is the plot of land or other fields to the left and right of the space belonging to the railroad for security and smooth operation.

2.1.2 Interview

Cahyono is a staff from the Regional Operations Office 1 located in Cikini Station in the Data and Asset Section in the troubled Asset sector of PT Kereta Api Indonesia. Regarding the settlements around the Tanjung Priok Station railroad to Ancol Station, Cahyono said that PT Kereta Api Indonesia was aware of this, and the problem of land owned by PT Kereta Api Indonesia that was used as a settlement by residents in Jakarta was that many areas were still being built. by the community to be used as a place to stay not only at Tanjung Priok station or at Ancol. For the operational area, the Regional Operations Office 1 alone handles 62 stations, and of the 62 stations there are still many residents who use the PT Kereta Api Indonesia railroad area to be used as a residence and even a business place.

The limitations of residents who want to have a place to live but do not have the ability to buy and even rent a house as a place to live and not necessarily also be registered as citizens of DKI Jakarta. So the point is that PT Kereta Api Indonesia still carries out controls for the safety of train travel, although there are still some unfinished when they have been done, but the Indonesian Railroad continues to strive to control so that railway transportation modes can be maximally active.

There are many factors, especially too many areas that we are disciplined, secondly when they are disciplined they return again, it has been done several times by residents who have been disciplined, such as in Ancol, several times people have been disciplined, but they continue to inhabit the railroad area again. . The Indonesian railroad remains consistent and focused on controlling, because the area is supposed to be sterile, but before controlling it must first ensure that the area is sterilized or not, evidenced by a ground card or certificate. Groundcard is proof of state land ownership owned by the Indonesian railroad because the legal force is the same as the strength of the certificate. In conclusion, the area to be sterilized must really have strong evidence that the land inhabited by the community is in the area of the railroad tracks so that it can be controlled and there is no polemic at the time of its implementation. PT Kereta Api Indonesia will continue to curb due to conditions in various areas of the railroad tracks, especially the area of the Tanjung Priok Station to Ancol Station, many illegal buildings have been built and many residents' cars parked in the area of the railroad tracks that should not be parked there, however there must be coordination from the region in this case the sub-district, Koramil police and related agencies to carry out

control. The control is not only in Tanjung Priok and Ancol stations, but in all railroad areas which are the operational areas of the Jakarta Regional Operations Office 1.

There are several obstacles related to controlling the people who live in the area of the railroad tracks, one of them does not have a place to live, so residents who have been disciplined will always be determined to build settlements around the area of other railroads, for personnel is also limited so that there is no 24-hour guarding the area Railroad tracks, because there must also be concern from the regional side as well, actually when they are there not only interfere with train travel, but also disturb the order of the residents there also because those who inhabit the railroad area are not necessarily those of Jakarta, because they are not their activity is unknown, but lately when we do the control of the region also helps because there is an Adipura assessment so we do it together between the Indonesian railroad and the regional party.

For law enforcement and fines there are many considerations and factors so that they have not or cannot be implemented, so we can do in the form of control. So the criminal fines have not been able to be done so PT KAI only carries out control so when the residents who build or carry out activities in the area of the railroad tracks when PT KAI is disciplined and they agree to be disciplined then the problem is resolved and peaceful. So far, PT Kereta Api Indonesia has only been to curb residents who are building or carrying out railroad areas that are deemed sufficient.

2.1.3 Alternative Solution

The concept of a row apartment can be used as an alternative for settlers on the railroad tracks. This concept has been applied in several countries that have the same problem, namely illegal settlements along the railroad tracks. One country that applies this concept is India. To improve the railroad system in the city of Mumbai, several illegal settlements near the tracks were marked to be destroyed under a city transportation project financed by the World Bank. With the help of an NGO to Promote Regional Resource Centers, the National Federation of Slum Dwellers and the Collective of Mahila Milan, as many as 1,400 illegal slum households can negotiate alternative housing in the form of flats with guaranteed long-term land tenure within only a few kilometers from the location early. The process of resettlement is managed entirely by affected people, with collaboration between stakeholders. A railroad relocation project in Mumbai shows that upgrading urban infrastructure is not necessary by forcing the poor to move, but with investment in creativity and cooperation it is possible for the city to

provide safe and permanent housing for the poor displaced by the project.⁴

Based on this explanation, PT Kereta Commuter Indonesia can adapt it to collaborate with the DKI Jakarta Provincial Government in relocating residents in the vicinity of the Kampung Bandan Station railroad to Tanjung Tanjung Priuk to rented apartment buildings to arrange housing on the railroad tracks. This concept has previously been applied before in the era of Governor Basuki Tjahaja Purnama in relocating residents who live on the river banks. The concept of row rental houses can be an alternative for the Regional Government, the Directorate General of Railways of the Ministry of Transportation, PT KAI (Persero), the Ministry of Public Works and Public Housing and other relevant parties in overcoming the railroad settlements and providing housing for the community.

The concept is expected to be a win-win solution for all parties. For people who live on the banks of the railroad tracks, they can get decent and affordable housing with guaranteed long-term ownership without having to move. far from the location of which they live so far. For PT KAI (Persero) as the owner of the land, can benefit through the exploitation of land on the banks of the railroad without losing assets. For the Directorate General of Railways the Ministry of Transportation can continue to carry out development for the development of railroad transportation without being hindered by the presence of illegal dwellings on the banks of the railroad tracks.

3. CONCLUSION

Based on the presentation that has been submitted, the conclusion in this paper are: Law enforcement from Article 181 paragraph (1) Shrimp Law No. 23 of 2007 concerning Railways is not implemented properly, because there are several factors that cause Law Enforcement not to run properly, these factors that is:

- a. The lack of supervision from PT Kereta Api Indonesia, which caused the demolished residents to demolish their buildings, came back to occupy the land of PT Kereta Api Indonesia.
- b. The number of personnel lacking from PT Kereta Api Indonesia to conduct surveillance becomes a weak point in law enforcement Law Number 23 Year 2007 concerning Railways, due to limited human resources making oversight so loose that areas that had previously been sterilized by being demolished were rebuilt again. the citizens.
- c. The deterrent effect given has not been maximal to the residents, because there are still residents who have settled in the area around the Ancol station railroad tracks to Tanjung Priok Station for quite a long time.

⁴ UNESCAP dan UN-HABITAT, 2008, *Housing the Poor in Asian Cities, Quick Guide 2*, Nairobi: United Nations Office, hal. 27

- d. Economic factors become a factor that residents still inhabit the railroad banks along the Ancol Station to Tanjung Priok Station.
- e. Not implementing the Railway Law, in this case criminal fines given to citizens who violate the provisions in Law Number 23 Year 2007 concerning Railways.

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