

Juridical Review of Investment Problems with an Environmental Inspection According to Provisions of Law Number 25 of 2007 Concerning Investments

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ABSTRACT

In the advancement of the business, particularly in the current business area, it cannot be rejected that the Coronavirus pandemic impedes financial improvement exercises in Indonesia. This does not preclude the chance of affecting venture issues in the business venture in carrying out and creating organizations in all areas. The Speculation Organizing Board as an administration organization, additionally puts forth attempts to keep up with the venture environment, one of which is improving the permitting cycle. This is done to react to the exorbitant interest of business entertainers. Notwithstanding, financial backers should focus on a few things so that in maintaining the business, they can give legitimate sureness and apply administration standards in maintaining the business both in strong and ecologically solid corporate administration and on the condition of local area culture as a corporate social obligation to society. As specified in Law Number 25 of 2007 concerning Speculation, in the issue of the venture, it should likewise focus on the climate, natural manageability, and save the climate as directed in Article 3 passage (1), Article 16 letter d, and Article 18 section (3) letter g In Article 18 section (3) letter g. Obviously, in the venture, financial backers should give offices to the climate. In its execution, there have been numerous deviations submitted by financial backers to get the most extreme benefit and affect because of not focusing on natural viewpoints not to cause legitimate assurance, sureness of rights, and lawful insurance. In this way, it is essential to have courses of action to accomplish the issue of naturally sound speculation.

Keywords: *Environmental Inspection, Investment Problem, Natural Speculation.*

1. INTRODUCTION

The venture is a significant necessity for a country in financial turn of events and supportable turn of events. Its execution should focus on the relevant standards and rules, like focusing on the insurance of the climate to assist people in the future and did economically. Speculation as one of the financial exercises to back different advancement programs, both to support the business world and the public authority, is exceptionally important to acknowledge economic improvement objectives and benefit society overall.

Indonesia's improvement, which adroitly started in 1969, cannot be isolated from Indonesia's new financial arrangement in the field of capital, particularly foreign capital. Starting with the arrangement on foreign capital and homegrown capital. This approach has started the origination of Indonesia's turn of events, whose execution

started in 1969. The natural angle has not yet been remembered for the origination of improvement. Then, in the phases of talking about natural issues being developed at the UN gathering, it continued until 1972. Around then, an arrangement was reached to connect issues and improvement, particularly in non-industrial nations. These advancements have assisted with reformulating the origination of Indonesia's improvement, which has come to be known as the earth sound turn of events.

Every nation can apply the methodologies, dreams, models, and devices accessible to every nation, as per its general conditions and needs, to accomplish feasible improvement in three measurements which are the general objectives. Green economy with regards to economic turn of events and neediness easing as one of the significant devices accessible to accomplish supportable turn of events. It can give alternatives to

strategy making; however, it ought not to be a bunch of unbending principles. The Assembled Countries stresses that it should add to destroying neediness just as manageable financial development, expanding social consideration, upgrading human prosperity, and setting out business open doors and fair work for all while keeping up with the sound working of the World's environments.

Concerning the issues in this examination, to be specific, what should be satisfied by financial backers in putting resources into naturally solid capital dependent on Law Number 25 of 2007 concerning Speculation, and what are the results if financial backers contribute their capital are not earth sound?

2. METHODS

This research was conducted using secondary data and a normative juridical approach. The studies in this research are legal principles, legal conceptions, expert views, and legal doctrines and legislation.

3. RESULT AND DISCUSSION

3.1 Meaning of Venture

Venture as one of the financial exercises to fund different public advancement programs. Both to support the business world and the public authority is significant to acknowledge manageable improvement objectives and have benefits for society overall. For this, the public authority makes a strategy to utilize the venture. Additionally, an after effect of the inescapable worldwide monetary relations is likewise upheld by understanding the global-local area on financial advancement and globalization, bringing about an increment in worldwide speculation relations.

In the Enormous Indonesian Word reference, it is expressed that speculation implies putting cash or capital in an organization or task to acquire benefit, while in Law Number 25 of 2007 concerning Speculation Article 1 number 1 clarifies that venture is all types of venture exercises, either by speculation or speculation. Homegrown capital and unfamiliar speculation to direct business in the domain of the Republic of Indonesia.

Unmistakably, there is no critical contrast between venture and speculation from the meaning of speculation or venture. The venture or speculation is a movement completed by an individual or legitimate element. It leaves a portion of his assessment, so it very well may be utilized to do a business in the expectation of getting results or benefits.

Ida Bagus Wyasa Putra expressed that, "The expression speculation law comes from an English interpretation, to be a specific venture of law, while there is no venture term in the enactment. The meaning of

venture law is the legal standards regarding the opportunities for speculation, speculation conditions, assurance, and in particular coordinates with the goal that speculation can make thriving for individuals.

Among individuals, the word venture or speculation is a term that refers to day-by-day business exercises just as in the language of enactment. The term speculation is a famous term in the business world, while the venture is usually utilized in enactment. In any case, fundamentally, the two terms have a similar significance.

Law Number 25 of 2007 concerning Speculation has separated between direct venture and aberrant speculation. It can be found in the clarification of article 2 of the law. It is said that interest in all areas in the region of the Republic of Indonesia is immediate speculation and does exclude backhanded ventures. Then, at that point, this law additionally does not recognize homegrown speculation and unfamiliar venture.

As per Komaruddin's view, likewise detailing venture from a monetary perspective and survey speculation as one of the variables of creation notwithstanding different elements of creation, the thought of venture can be separated into three, specifically:

1. An activity to purchase offers, bonds, or different speculations. b. A demonstration of giving capital merchandise.
2. Usage of accessible assets for creation with future payments.

Venture exercises can be grouped into two, specifically as follows:

- a. Direct venture is characterized as a speculation movement that includes the exchange of undertaking supports that have an extended period determined to acquire customary pay, interest from the gathering making the exchange of assets and a business hazard. This immediate speculation should be possible by building up a joint endeavor with a nearby accomplice, directing joint activities without shaping another organization, changing over credits into more significant part investment in neighborhood organizations, giving specialized and material help just as by giving licenses.
- b. Roundabout Venture (Portfolio Speculation) is a transient venture movement that remembers exchange exercises for the capital and currency markets. This speculation is called a momentary venture. As a general rule, purchasing and selling offers or monetary forms in a moderately brief timeframe relies upon changes in the worth of offers or potentially the money they need to exchange.

The contrast between direct speculation and aberrant venture is as per the following:

1. In a circuitous venture, investors do not have authority throughout the day-to-day administration of the organization.
2. In a direct venture, the danger is typically borne by the actual investors so that essentially they cannot sue the organization that does its exercises.
3. Losses on roundabout speculations are by and large not covered by common global law.

3.2 Standards and Targets of Speculation

There are a few standards in investing, and it is as per the following:

1. The rule of legitimate assurance is a rule in a condition of law that sets out the laws and arrangements of laws and guidelines as the reason for each strategy and activity in speculation exercises.
2. The rule of transparency is that being available to the public is on the right track to acquire correct, fair, and non-biased data about venture exercises.
3. The guideline of responsibility is the rule that discovers each movement and the eventual outcome of the execution of speculation, which should be responsible to the local area or individuals as the holder of the most significant power of the state as per the arrangements of the enactment.
4. The guideline of equal treatment and no qualification of the nation of beginning is the standard of non-unfair treatment of administrations dependent on the arrangements of laws and guidelines, both between homegrown financial backers and unfamiliar financial backers.
5. The rule of harmony is the rule that empowers the job of all financial backers together in their business exercises to understand the government assistance of individuals.
6. The guideline of reasonable proficiency is the rule that underlies the execution of
7. Venture by focusing on reasonable proficiency with an end goal to make a good, helpful and serious business environment.
8. The standard of maintainability is the rule that, in an arranged way, takes a stab at the improvement interaction through the venture to guarantee thriving and progress in all parts of life in the present and for what is to come.
9. The rule of ecological understanding is the rule of venture completed by yet focusing on and the insurance and upkeep of the climate.
 1. The guideline of autonomy is the rule of venture did by proceeding to focus on the capability of the country and state by not shutting itself on the passage of unfamiliar capital for the

acknowledgment of financial development.

10. The guideline of equilibrium of progress and public financial solidarity.

In addition to the above legal principles, the Agreement on Trade-Related Investment Measures (TRIMs) has determined a principle, namely non-discrimination. This means that this principle in investing does not distinguish between foreign and local Investment. It was considering that Investment does not recognize national borders. In other words, that Investment invested by investors is not distinguished between foreign Investment and local Investment, which seeks to maintain a balance of regional economic progress, in a unified manner, national economy.

Law Number 25 of 2007 concerning Investment contains the objectives of implementing Investment, while the objectives of organizing Investment are to:

- a. Increase national economic growth.
- b. Create jobs.
- c. Promote sustainable economic development.
- d. Improving the competitiveness of the national business world.
- e. Increase the capacity and capability of national technology.
- f. Encouraging the development of the people's economy.
- g. Processing the potential economy into real economic strength by using funds originating from both within the country and abroad.
- h. Improving people's welfare. [\[1\]](#)

The objective of implementing such Investment can only be achieved if the supporting factors that hinder the investment climate can be overcome, among others, by improving coordination between central and regional government agencies, creating an efficient bureaucracy, legal certainty in the investment sector, highly competitive economical costs, as well as a conducive business climate in the fields of employment and business security.

Meanwhile, the benefits obtained from this domestic Investment will be able to save foreign exchange, reduce dependence on foreign products, encourage the advancement of domestic industry through forwarding linkages and backward linkages, and contribute to efforts to absorb labor. Meanwhile, the benefits of foreign Investment or capital are to create jobs, technology experts and valuable skills, and a source of savings or foreign exchange.

3.3 Types of Investment

In general, investment activities can be classified into two major parts. According to Jonkers S., Types of Investment, namely, direct Investment or also called

long-term Investment, and indirect Investment or also called portfolio investment.

- a. Direct investment (direct investment) or also called long-term Investment. The meaning of this type of direct Investment is generally associated with the existence of capital management activities. Activities can be carried out in the form of:
 - 1) Establish a joint venture company together with local partners.
 - 2) Conduct joint operation schemes without forming a new company.
 - 3) Converting company technical and managerial assistance (technical and management assistance).
 - 4) Licensing, etcetera.
- b. Indirect Investment (indirect Investment) or also called portfolio investment. Types of Investment in the indirect concept are usually characterized by:
 - 1) Shareholders do not have control over the management of the company/company in day-to-day business.
 - 2) The risk factor is borne by the shareholders themselves so that basically, it is ensured not to interfere with the company in controlling the course of its activities.
 - 3) Generally not protected by generally applicable international customary law. [2]

Based on this explanation, it can be stated that investment activities are classified into two parts, namely direct Investment, and indirect Investment. Direct Investment is an investment activity generally carried out directly by investors, namely establishing joint ventures, converting technical and managerial assistance to companies, and so on. Indirect Investment is an investment activity carried out by investors indirectly or generally only in capital flows without active involvement, such as stock trading and others. Meanwhile, if viewed from the source of funding, Investment is divided into domestic Investment (PMDN) and foreign investment (PMA).

“Domestic investors are individuals who are Indonesian citizens, Indonesian business entities, the Republic of Indonesia, or regions that make investments in the territory of the Republic of Indonesia. Foreign investors are individual foreign citizens, foreign business entities, and/or foreign governments that make investments in the territory of the Republic of Indonesia.” [3]

3.4 Sources of Investment Law

The sources of law in the implementation of Investment in Indonesia are as follows:

- a. Law Number 25 of 2007 concerning Investment.
- b. Government Regulation of the Republic of Indonesia Number 45 of 2008 concerning Guidelines for Providing Incentives and Providing Ease of Investment in the Regions.
- c. Government Regulation Number 52 of 2011 concerning the Second Amendment to Government Regulation Number 1 of 2007 concerning Income Tax Facilities for Investment in Certain Business Fields and/or in Certain Regions.
- d. Presidential Regulation of the Republic of Indonesia Number 39 of 2014 concerning List of Business Fields Closed and Business Fields Open with Conditions in the Investment Sector.
- e. Government Regulation Number 18 of 2015 concerning Income Tax Facilities for Investment in Certain Business Fields and/or in Certain Regions.
- f. Presidential Regulation Number 044 of 2016 concerning List of Business Fields Closed and Business Fields Open with Requirements in the Investment Sector.
- g. Presidential Regulation Number 16 of 2012 concerning General Investment Plans.
- h. Regulation of the Head of the Investment Coordinating Board Number 13 of 2017 concerning Guidelines and Procedures for Licensing and Investment Facilities.
- i. Regulation of the Head of the Investment Coordinating Board Number 06 of 2018 concerning Guidelines and Procedures for Licensing and Investment Facilities.

3.5 Rights, Obligations, and Responsibilities of Investors

Law Number 25 of 2007 concerning Investment also regulates the rights, obligations, and responsibilities of investors so that there is legal certainty, emphasizes the obligations of investors to apply the principles of sound corporate governance, pays respect to the community's cultural traditions, and carry out social responsibility. The regulation of investor responsibilities is needed to encourage a healthy business competition climate, increase environmental responsibility, fulfill the rights and obligations of workers, and encourage smooth implementation of Investment.

a. Investor Rights

Regarding the rights of investors, it is regulated in Article 14 of Law Number 25 of 2007 concerning Investment which stipulates that every investor is entitled to:

- 1) Certainty of rights, law, and protection.
- 2) Open information about the line of business it runs.
- 3) Service rights.
- 4) Various forms of convenience facilities in accordance with the provisions of the legislation.

b. Investors' Obligations

Regarding the obligations of investors, it is regulated in Article 15 of Law no. 25 of 2007 concerning Investment, which stipulates that every investor has the obligation to:

- 1) Applying the principles of good corporate governance.
- 2) Implement corporate social responsibility.
- 3) Make a report on investment activities and submit it to the Investment Coordinating Board.
- 4) Respect the cultural traditions of the community around the location of investment business activities.
- 5) Comply with all statutory provisions.

The obligations of investors are precisely regulated to provide legal certainty, emphasize the obligations of investors to apply the principles of sound corporate governance, respect the cultural traditions of the community, and carry out corporate social responsibility. The regulation of investors' responsibilities is needed to encourage a healthy business competition climate, increase environmental responsibility, fulfill the rights and obligations of workers, and encourage efforts to comply with the laws and regulations of investors.

Regarding the obligations of investors as contained in Article 15 of Law no. 25 of 2007 concerning Investment, it can be concluded that corporate social responsibility is the responsibility inherent in every investment company to continue to create harmonious, balanced, and in accordance with the environment, values, norms, and culture of the local community in which it invests. The capital.

c. Responsibilities of Investors

The responsibility of investors is regulated in Article 16 of Law no. 25 of 2007 concerning Investment, which explains that every investor is responsible for:

- 1) Ensuring the availability of capital originating from sources that do not conflict with the provisions of laws and regulations;
- 2) Bear and settle all obligations and losses if the investor stops, leaves, or abandons his business activities unilaterally according to the provisions of the legislation.
- 3) Creating a fair competition business climate, preventing monopolistic practices, and other detrimental things to the state.
- 4) Maintain environmental sustainability.
- 5) Creating safety, health, comfort, and welfare of workers.
- 6) Comply with all statutory provisions.

Article 17 also explains that investments seeking non-renewable natural resources are obligated to allocate funds in stages to restore locations that meet environmental feasibility standards, the implementation

of which is regulated in accordance with the provisions of laws and regulations.

These provisions anticipate environmental damage caused by investment activities, whether carried out by domestic investors or foreign investors.

3.6 Environmentally Friendly Investment

Speaking of environmentally sound Investment, we cannot be separated from the provisions of Law Number 25 of 2007 concerning Investment. The law explains that Investment must pay attention to environmental problems. This can be seen in the provisions of Article 3 paragraph (1) point h, which explains that Investment is carried out based on the principle of environmental insight. Article 16 letter d also explains that every investor is responsible for preserving the environment. Then Article 18 paragraph (3) letter g also explains that Investment that gets the facilities as referred to in paragraph (2) is one that at least meets one of the following criteria, namely preserving the environment.

From these provisions, it is clear that in Law Number 25 of 2007 concerning Investment, in the sense that the direction of investment development policy is towards a green economy development program, where the target of economic growth must be in line with the issue of preventing global warming and the goals of sustainable development. Environmentally sound Investment needs to be in synergy with environmental development policies and programs, development of priority sectors and environmentally friendly technology, green economy development, provision of investment facilities, and/or incentives. (Nurasmah, 2015:562).

In Indonesia, green Investment with green industry is also part of the effort to realize a green economy (Green Economy). According to Law no. 3 of 2014 concerning Industry, Article 1 number 3 explains that the green industry is an industry that in its production process prioritizes efficiency and effectiveness in the use of resources sustainably to be able to harmonize industrial development with the preservation of environmental functions and can provide benefits to the community.

- a. Making a suitable Investment in natural resource capital means that investments and economic activities carried out in natural resource sectors need to be managed in a green/environmentally friendly manner. Covering the agricultural, fisheries, water resources, and forest sectors, there is also a wealth of biodiversity (biodiversity).
- b. Invest in energy efficiency and natural resources.
- c. Creating and growing conditions that support the development of Investment and efficiency, which can be in the form of fiscal/expenditure policies that are directed towards green Investment in various sectors, policy reforms, and regulatory changes in a direction that is more conducive to

efficiency, low emissions and low pollution, and maintenance of natural resource capital.

This explanation means that green Investment refers to the Investment needed to reduce greenhouse gas emissions and air pollution without significantly reducing the production and consumption of non-energy goods, including public and private Investment. So there is no definite understanding of green Investment or green investment implementation standards in Indonesia. However, recently, natural resources and environmental services have only been seen from the perspective of production factors to support the flow of the economy. Nevertheless, it is also not limited to supporting economic activities and unlimited ability to absorb the resulting degradation and pollution.

The Ministry of Industry of the Republic of Indonesia has explained seven (7) characteristics of the green industry, namely efficient use of input materials, alternative input materials, low energy intensity, low water intensity, talented human resources, minimization of waste generated, and technology low carbon. Article 18 of Law no. 23 of 1997 concerning Environmental Management, explains the requirements for environmental management, in which every business and/or activity that causes a large and significant impact on the environment is required to have an analysis of environmental impacts to obtain a permit to conduct business and/or These businesses and activities are granted by the authorized official in accordance with the applicable laws and regulations, and the permit includes the requirements and obligations to carry out efforts to control environmental impacts.

In issuing a permit to conduct a business and/or activity, attention must be paid to the spatial plan, public opinion, and the considerations and recommendations of the competent authority relating to the said business and/or activity.

Where the permit is given must be announced because the announcement of the permit to do business and/or activity is the implementation of the principle of government openness. Announcement of the permit to conduct business and/or activity allows community participants, especially those who have not yet used the opportunity in the objection process, hearings, and others in the permit decision-making process. Decisions on permits to conduct business and/or activities must be announced. Without a permit decision, everyone is prohibited from disposing of waste originating from outside the territory of Indonesia into the Indonesian environmental media, and everyone is prohibited from importing hazardous and toxic waste.

The concept of a one-stop integrated licensing service has been implemented in the provisions of Law no. 25 of 2007 concerning Investment as regulated in Article 25 explains. Investments making investments in Indonesia

must comply with Article 5 of this Law. Ratification of the founder of a domestic investment business entity in the form of a legal entity or not a legal entity is carried out in accordance with statutory regulations. Ratification of the founder of a foreign investment business entity in the form of a limited liability company is carried out in accordance with the laws and regulations. An investment company that will carry out business activities must obtain a permit in accordance with the provisions of the legislation from the agency that has the authority unless otherwise stipulated in the law. As referred to in paragraph (4), the permit is obtained through a one-stop integrated service.

While in Article 4 of Government Regulation no. 45 of 2008 concerning Guidelines for Providing Incentives and Providing Investment Facilities in the Regions explains that the provision of investment facilities in the form of accelerated licensing as referred to in Article 3 paragraph (2) is carried out through one-stop integrated services in accordance with the provisions of the legislation. In order to attract as many investors as possible, Indonesia must prepare good and more comprehensive incentives. The incentive is in the form of simplification of licensing, which has been a frightening specter for investors. This is because licensing issues take quite a long time and are convoluted and with a long bureaucracy. It also affirms the obligations related to the arrangement of provisions regarding environmental management that must be carried out by the person in charge of the business and/or activity in carrying out the business and/or activity.

For businesses and/or activities required to make or carry out an analysis of environmental impacts, the management plan, and environmental monitoring plan. Which must be implemented by the person in charge of the business and/or activity must be clearly stated and formulated in the permit to conduct a business and/or activity, such as the obligation to treat waste, requirements for the quality of waste that may be disposed of into environmental media, obligations related to waste disposal, the obligation to report results to the agency responsible for controlling environmental impacts.

3.7 Objectives of Environmentally Friendly Investment

The presence of investors has broad benefits from both domestic and foreign investors because a country's economy that wants to grow sustainably requires continuous capital. So the problem of Investment is an essential pillar for the economic growth of a country. The benefits obtained by Investment for the Indonesian state are providing employment opportunities, developing import substitution industries to save foreign exchange, encouraging the development of non-oil and gas export

goods industry to earn foreign exchange, development of underdeveloped areas, and transfer of technology.

Therefore, it is clear that Investment is one of the dilemmas for financing development that can facilitate continuous economic development and can be stimulated to balance the economic capabilities of other countries. Investment in a country is related to the demands to carry out national development in that country. In general, the difficulties faced in implementing national development, which focuses on economic development, include lack of capital, technology, knowledge, experience, and abilities/skills. Developing countries generally experience these obstacles because every national development is always multidimensional, which requires significant sources of financing and resources, both from within and outside the country.

In order to increase per capita income, in the sense of increasing economic activity and the level of community welfare, one of the sources of financing and resources that can be utilized for the benefit of national development is Investment which is carried out in various forms of investment, both domestic and foreign. Utilizing Investment optimally, maximum profit will be sought, so that in turn, will be able to carry out capital accumulation, have capital equipment, experience, and skills independently.

4. CONCLUSION

The obligation of Investment in the implementation of Investment is to emphasize the obligations of investors to the application of sound corporate governance principles and to carry out corporate social responsibility and is a legal certainty. As the provisions of Law Number 25 of 2007 is a law that pays attention to environmental problems, in accordance with the provisions of Article 3 paragraph (1), Article 16 letter d, Article 18 paragraph (3) letter g. Because in its implementation, investors make many deviations to get the maximum profit and have an impact due to not paying attention to environmental aspects. So that it does not create legal certainty, for this reason, it is necessary to have arrangements to achieve environmentally sound investment problems.

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