

CHAPTER ONE

INTRODUCTION

A. Background

Land is one of the natural resources that is important for the survival of mankind, the relationship between humans and the land is not just a place to live, but more than that, land provides resources for the survival of mankind. For the Indonesian people, land is a gift from God Almighty and is a national wealth, and the relationship between the Indonesian people and land is eternal, therefore it must be managed carefully both now and in the future.¹

The use of land rights of other parties by parties who need land can be reached through the transfer of rights in the form of buying and selling, or relinquishing land rights by the holder of the rights by providing compensation by the parties who need the land to the holder of the land rights. The method of acquiring land through buying and selling, or relinquishing land rights can be done if there is an agreement between the parties who need the land and the holder of the land rights.²

Land acquisition activities by parties who need land against land rights of other parties are known as land acquisition. Based on its interests, land acquisition is divided into 2 (two) types, namely: First, land acquisition

¹ Marjanto, Sonny Djoko, 2010, Konsinyasi Ganti Rugi Dalam Pengadaan tanah Untuk Kepentingan Umum (Studi Pengadaan Tanah Untuk Pembangunan Proyek Jalan TOL Semarang – Solo Di Kabupaten Semarang). *Masters thesis, Universitas Diponegoro*, p. 6

² Urip Santoso, (2016), “Penyelesaian Sengketa dalam Pengadaan Tanah untuk Kepentingan Umum”, *Jurnal Perspektif*, Vol. XXI, No 3, September 2016, p. 188

for the public interest. Parties requiring land in land acquisition for the public interest are agencies, namely state institutions, ministries, non-ministerial government agencies, provincial governments, district/city governments, state-owned enterprises. Second, land acquisition for the benefit of private companies. The party that requires land in land acquisition for the benefit of a private company is a Limited Liability Company (PT).³

Procurement of land for the public interest is one of the activities carried out by the government related to its duties and responsibilities to promote public welfare. Such a state task causes Indonesia to be classified as a welfare state (*welfarestaat*), and in this context the state is given the authority to control land.

In Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it is stated that the earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. The reason why the earth and water and the natural resources contained therein must be controlled by the state is because the earth, water and natural resources contained therein are the main points of people's prosperity.⁴

The implementation of development today, in addition to improving the welfare of the community, turns out to cause problems. The problems faced by the government in implementing development include the problem

³ *Ibid.*, p. 189

⁴ Yanto Sufriadi, "Penyebab Sengketa Pengadaan Tanah untuk Kepentingan Umum (Studi Kasus Sengketa Pengadaan Tanah untuk Kepentingan Umum di Bengkulu)", *Jurnal Hukum Ius Qula Iustum*, Vol. 18, No. 1, Januari 2011, ISSN 2527-502X. p.7

of providing land for development itself, because state land controlled directly by the state is limited or can be said to be almost non-existent. According to Soedharyo Soimin, “the only way that can be taken is by liberating land owned by the people, whether controlled by customary law, or other rights attached to it.”⁵

Therefore specifically for the implementation of development for the public interest according to Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, State Gazette Number 104 of 1960, Article 18 states that for the public interest, including the interests of the nation and the state as well as the common interests of the people, land rights can be revoked, by providing compensation. The article can be said to provide guarantees for the people regarding their rights to land. The revocation of rights is possible but is bound by conditions, for example, it must be given proper compensation.⁶

In Article 5 of Presidential Decree 65 of 2006 development for the public interest carried out by the Government or Regional Government, one of which is in the form of dam construction, Article 1 paragraph 1 Government Regulation Number. 37 of 2010 concerning Dams are buildings in the form of soil backfill, stone backfill, concrete, and/or masonry that are built in addition to holding and storing water, can also be

⁵ Hardianto Djanggih, “Aspek Hukum Pengadaan Tanah bagi Pelaksanaan Pembangunan untuk Kepentingan Umum”, *Jurnal Pandecta*, Vol. 12, No. 2, Desember 2017, ISSN 2337-5418. p. 32

⁶ Rahayu Subekti, Kebijakan Pemberian Ganti Kerugian dalam Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum, *Jurnal Yustisia*. Vol. 5, No. 2 Mei-Agustus, p. 378

built to hold and accommodate mining waste (tailings), or accommodate mud so that a reservoir is formed.

In the construction of the Bener Dam, the problem that is currently being faced is that the residents ask the related parties to pay a fair price in accordance with joint negotiations. According to residents, the price of land per meter in the area reaches Rp. 150.000 - Rp. 200.000 per meter, but the price paid is 181 plots which have been paid at a very cheap price of Rp. 50.000 - Rp. 60.000 per meter.⁷ Meanwhile, in land acquisition, it is possible to hold deliberations for the community in order to reach a price agreement for both the community and the government, while the law states that in the implementation of land acquisition, the government or the state is prohibited from taking by force, intimidating and harming the community as the owner of the land that is included with the certificate or legal evidence of ownership of a land, but in its implementation the government and the community have not reached an agreement on the price of compensation for the land to be built by the dam for the benefit of the community and the state, therefore the author is interested in conducting research with the title **“LAND ACQUISITION FOR BENER DAM CONSTRUCTION (BENER DISTRICT, PURWOREJO REGENCY)**.

⁷ Anonim, “Ganti Rugi Belum Deal Warga Terdampak Bendungan Bener Ngadu ke DPRD”, dari <https://news.detik.com/berita-jawa-tengah/d-4848439/ganti-rugi-belum-deal-warga-terdampak-bendungan-bener-ngadu-ke-dprd> was accessed on March 9th 2021 at 11:33

B. Statement of Problem

1. What is the procedure for implementing land acquisition and determining compensation for the construction of a Bener dam?
2. What are the obstacles faced in the implementation of land acquisition for the construction of the Bener dam?

C. Objective of Research

1. To find out the procedures for implementing land acquisition and determining the provision of compensation for the construction of the Bener Dam
2. To find out the obstacles faced in the implementation of land acquisition for the construction of real dam.

D. Benefits of Research

Research benefits from this writing include:

1. Theoretical Benefits

This research contributes to the development of State Administrative Law in the field of Land Acquisition studies related to how the compensation system regarding land acquisition in the Bener Dam.

2. Practical Benefits:

This research provides practical benefits as information/guidelines/references for the government.

