

IMPLEMENTATION STRATEGY FOR LAND CONSOLIDATION IN URBAN AREAS

Ernawati¹, Amrun Kahar², L.M Ricard Zeldi Putra³

¹ Faculty of Law, Universitas Muhammadiyah Buton, Baubau, Indonesia

² Faculty of Law, Universitas Muhammadiyah Buton, Baubau, Indonesia

³ Faculty of Law, Universitas Muhammadiyah Buton, Baubau, Indonesia

ABSTRACT

Land consolidation is a critical component of comprehensive land management because it enables the efficient use of space in the context of achieving strong national resilience. This indicates that the space allotted and decided in the spatial planning blueprint has not been used consistently as specified in the City RTRW. Increased implementation of land consolidation by the National Land Agency must, of course, be justified by a rationale that has been previously developed and is backed up by clear legal reasons, as well as by an understanding of the major difficulties associated with land consolidation implementation. The objective of this study is to ascertain the legal bases for land consolidation as well as methods for land consolidation in terms of urban area structure.

Keyword: Strategy, Land Consolidation, Regional Planning.

1. INTRODUCTION

Land Consolidation is a critical component of total land management, with the goal of maximizing space use while achieving strong national resilience. Land Consolidation is the process of implementing participatory integrated land policies that restructure both the legal and physical aspects of land tenure and ownership in order to improve environmental quality or Urban Land Consolidation is the process of implementing participatory integrated land policies that restructure both the legal and physical aspects of land tenure and ownership in order to improve environmental quality [1]. In this regard, the ultimate goal of Land Consolidation is to achieve the national goals outlined in the Preamble to the 1945 Constitution, which include the protection of the Indonesian people (against uncertainty regarding land tenure and ownership, as well as the occurrence of land conflicts or disputes) and the promotion of public welfare (by strengthening various gatra or aspects of national life). Indeed, land management is mandated by the 1945 Constitution of the Republic of Indonesia, which states in Article 33 paragraph (3) that the soil, water, and natural resources included within are to be governed by the state and exploited to the greatest extent feasible for the common good, in the sense that the state is empowered to control and administer land, as land is an integral element of the earth [2].

The major concerns identified throughout the land consolidation process in Indonesia will serve as the basis for policies designed to maximize space use in the context of national resilience at the regional level. It should be acknowledged that developing a concept for enhancing Land Consolidation implementation should be done fully, integrally, and holistically, taking any applicable requirements into consideration. The idea encompasses a collection of policies, plans, and initiatives developed by authorized decision makers.

2. RESEARCH METHOD

This research is normative legal in nature. Normative legal research is legal research that focuses on the gap between imperatives, specifically orders and prohibitions (das sollen), contained in the substance of various laws and regulations and the legal reality in society (das sein) regarding various substances. a law that departs from the law's will [3].

3. RESULT AND DISCUSSION

3.1 Implementation Strategy for Land Consolidation in Urban Areas

The use of space, as defined in the Head of the National Land Agency's Regulation No. 4 of 1991 [4], is an attempt to actualize the spatial structure and pattern specified in the spatial plan through the development and execution of programs and their funding. With this knowledge, Land Consolidation may be used to carry out participatory land tenure modification, usage, and utilization (hereinafter referred to as KT). KT is a participatory land policy that reorganizes land tenure and ownership, as well as land use and utilization, in such a way that the location organized through KT can become a suitable area for settlements and/or agricultural businesses, while also taking into account the unique conditions of the Indonesian territory. Certain regions of the city are slum zones, or portions of the city have the capacity to expand without direction [5].

Numerous KT initiatives in Indonesia are targeted only at restructuring the suburban regions of Land Consolidation, Spatial Planning, and City National Resilience (urban periphery) with the capacity to flourish. Even however, the outcomes are not always optimum, as physical construction such as road infrastructure and other public amenities is not always followed by KT implementation that has been recognized by the land authority [1].

According to the definition included in Article 1 Point 1 of the Head of the National Land Agency's Regulation No. 4 of 1991 on Land Consolidation [4], namely:

Land Consolidation is a participatory land policy for the use or adjustment of space utilization in the form of realigning land tenure and use as well as land acquisition efforts for development purposes, to improve environmental quality and maintain natural resources.

Land consolidation is a development strategy that includes policies for controlling land tenure, modifying land use in accordance with Land Use/Spatial Planning, and land acquisition for development objectives, as well as environmental quality/natural resource conservation [6].

Urban land consolidation is the process of reorganizing irregularly shaped parcels in residential areas or areas earmarked for settlement into regular and orderly parcels that all face the road or road plan and are equipped with land settlement for public facilities required by the city's general plan of governance. There are numerous advantages to urban land consolidation [7], including the following:

- 1) Increase urban development to meet the needs of rapid population growth.
- 2) Provide land for development for solving settlement problems.
- 3) Organize registration and fix problems related to cadastre.
- 4) Limiting new and clear boundaries for maximum land tenure.
- 5) Equip urban public facilities and improve sewerage systems and environmental sanitation.
- 6) Improve land use and legal standing of land owners.
- 7) Solve the problem of squatters and beautify the urban environment.
- 8) Develop community and industrial residential areas for business and industrial purposes.
- 9) Save government funds for development.
- 10) Avoiding the difficulty of compensation funds in obtaining land for public facilities.
- 11) Increase the prosperity of the city with the tax system.
- 12) To create legal certainty over land ownership because each participant in the consolidation will all receive proof of land ownership. (certificate).

3.2 Legal Basis for Implementation of Land Consolidation

The legal foundations for land consolidation are as follows:

- 1) Law No. 5 of 1960 on Fundamental Agrarian Principles [8]: Articles 2, 6, 12, and 14 of the LoGA establish the framework for regulating KT. According to Article 2 of the UUPA, the ATR/Land authority may implement different policies and regulations relating to control and usage, as well as land use and land use. Article 6 of the LoGA clearly states that land rights serve a social purpose, implying that their usage and use must continue to be guided by Government policies on spatial planning, including spatial utilization.
- 2) Law No. 17 of 2007 on the National Long-Term Development Plan (RPJPN) for the period 2005–2025 (Unitary State of the Republic of Indonesia, 2007a): implicitly establishes corridors, requiring that the implementation of KT as part of the development of Land Consolidation, Spatial Planning, and National Resilience must be integrated into efforts to achieve the 2005–2025 RPJPN's objectives, namely to: (a) support (c) guarantee connections and consistency between planning, budgeting, implementation, and supervision, (d) promote efficient, effective, equitable, and sustainable resource usage, and (e) maximize community engagement.

- 3) Spatial Planning Law No. 26 of 2007 [9]:The law's clarification of Article 33 indicates that one method of community engagement in the use of space is through 'Land Utilization Consolidation' as one of the modes of land use.
- 4) Housing and Settlements Law No. 1 of 2011 [10]. Identified the formulation of KT and KT arrangement as an instrument for providing land for housing and settlements in the requirements of Article 1. According to Article 1 point 18, KT is a reorganization of land control, ownership, use, and utilization in accordance with the regional spatial plan in order to provide land for housing and settlement development, as well as to improve the quality of the environment and preserve natural resources through community participation.
- 5) Government Regulation No. 16 of 2004 on Land Use [11]. According to Article 23 paragraph (4) of PP 16 of 2004, the pattern of land management, use, and utilization is adjusted in accordance with the Regional Spatial Plan, among other things, via restructuring (which form, among others, in the form of KT). Additionally, Article 23 paragraph (6) of the PP states that the adjustment is implemented with the community's participation.
- 6) Regulation of the Head of BPN No. 4 of 1991 on Land Consolidation [12]. According to Article 1 point 1 of the Regulation of the Head of BPN No. 4 of 1991 on Land Consolidation, KT is a land policy that involves the restructuring of land tenure and use, as well as land acquisition efforts for development purposes, in order to improve environmental quality and preserve natural resources through the involvement of local communities.

3.3 Consolidation of Land in the Context of Urban Planning

Land consolidation include the registration of land subjects and objects, the measurement of land parcels, and the mapping of topography and land usage. The registration data are then utilized to create block designs, which are subsequently consulted with the community [13].

Consolidation of land recognizes the presence of two (two) implementation systems, which are as follows:

3.3.1 Voluntary System

The voluntary approach can be adopted if the landowner in the area to be consolidated agrees. The voluntary system is governed by Article 4 paragraph (2) of the Head of the National Land Agency's Regulation No. 4 of 1991 on Land Consolidation, which states that land consolidation can be carried out by at least 85 percent of land owners where the land area covered by the land to be consolidated is at least 85 percent of the total land [6]. The application of a voluntary system in land consolidation will benefit land owners in the following ways:

- a. land owners will directly benefit from an increase in land value;
- b. there will be regular plots of land facing the road, increasing land use efficiency;
- c. it will facilitate the creation of a better living environment;
- d. it will expedite the development of public infrastructure.
- e. Eliminating disgruntled stakeholders, as is customary in conventional system development;
- f. Can provide an orderly land administration, as each parcel of land is immediately granted its rights when land certificates are given.

3.3.2 Mandatory System

The obligatory system is implemented on the basis of the applicable laws and regulations being binding. Land consolidation is based on the idea of giving land for infrastructure building in the form of roads and other public utilities without requiring land acquisition. Where, land provision

This is accomplished by the owner donating a piece of his or her property, referred to as the Mandatory Land Contribution for Development (SWTP). This is in compliance with the terms of Article 6 paragraphs (1), (2), and (3) of the Head of the National Land Agency's Land Consolidation Regulation No. 4 of 1991. In calculating the Mandatory Land Contribution for Development (SWTP), a system based on land area computation, land value or price calculation, and a good combination of land area and land pricing is typically used.

According to Article 7 paragraph (1) of the Head of the National Land Agency's Regulation No. 4 of 1991 on Land Consolidation, the implementation of land consolidation with a mandatory system is primarily funded by the land owner through donations specified in Article 6. and other public facilities through land consolidation with a mandatory system, alternative policies can be implemented.

- a. The community's self-help policy, in which land for infrastructure and other public facilities is acquired and constructed by community members. This solution is excellent for implementation since it alleviates the

government's burden. However, its development will necessitate a robust legal framework governing implementers' systems and work techniques from planning to execution of monitoring.

- b. A program of collaboration between non-governmental groups and the government, in which the community acquires property for infrastructure and other public purposes while the government develops the area through the APBN/APBD. This alternative selection is the first step toward fully including the community in land consolidation.
- c. The mixed path policy between the government and non-governmental organizations is related to land consolidation, in which the government acquires and constructs land while non-governmental organizations consolidate the lands of community residents who can directly benefit from the infrastructure. This approach is used to ensure that the outcomes of government-funded infrastructure development may be directly utilized by the community.
- d. A special policy on lands for land reform, in which land for public infrastructure and utilities, as well as consolidated parcels of land, is directly controlled by the state as the aim of land reform. This solution was created to ensure that land ownership and usage are governed by government policy.

Efforts to maximize the efficiency and productivity of urban land use in urban areas, as well as development through location selection in accordance with the City Spatial Plan, must take environmental conditions, as well as the capabilities and desires of land owners as consolidation participants, into account. As a result, the following regions are planned for land consolidation:

- a. Areas destined to become cities or new settlements, where land consolidation is carried out independently in the form of mature land plots (KTM) by developers who want to establish new settlements in the region, and where developers can also sell in the form of KTM or complete with their dwellings.
- b. A developing territory, often located on the outskirts of a city already populated by urbanites.
- c. Rapidly developing residential neighborhoods in which communities develop in an uneven land parcel pattern, making infrastructure and other public utilities difficult to reach or access.
- d. A largely undeveloped area that is amenable to development.
- e. Areas that have previously been subjected to natural and societal disasters and required renovation/reconstruction.

The method of increasing the efficiency and productivity of urban land use from the perspective of land consolidation is to build necessary public infrastructure and facilities for the community, such as roads, green lines, and irrigation, in order to enable the optimization of urban land use efficiency and productivity, which also contributes to the effectiveness of urban acceleration. Additionally, the property value has grown as a result of the land area being consistently planned and provided with public services. The following are the benefits of greater efficiency and optimal land use in cities [14]:

1) For Governmental Use

- a. Promote urban growth by reducing land acquisition expenses.
- b. Establishing an area that adheres to sound environmental and land management standards.
- c. Establishing a safe, orderly, smooth, and healthy land use (ATLAS) that represents the City Spatial Technical Plan's implementation (RTTRK).
- d. Regulate land ownership and certificate fulfillment.

2) For Consolidated Participants

- a. Availability of required public amenities.
- b. The advantages and value of land rise when land prices climb following the arrangement.
- c. There is a guarantee of land rights clarity provided by
- d. Certificates may be issued very quickly, therefore minimizing land conflicts.

Substantively, it is also important to pay attention to a number of steps that contribute to the success of urban area planning through land consolidation. The technical element of land consolidation must be examined, as it directly impacts the success or failure of the process and the objectives to be accomplished. Correct soil consolidation entails three steps [15], namely:

1. Stage of Preparation

Closely connected to the land consolidation location that will be picked. This location must satisfy the requirements of at least 85 percent of property owners whose land area accounts for at least 85 percent of the total land area to be consolidated. This site should also be compatible with the City Spatial Plan or Regional Growth Plan, which are intended to evolve in lockstep with the surrounding area's degree of development. Immediately following this action is counseling, seeking deals with land owners, and the Mayor designating the location as a land consolidation location. This location is legally enforceable because it is specified in the Mayor's order.

2. Stage of data gathering

This stage addressed both the physical and legal issues of the land consolidation site. Following the measurements, the topic and aim of land consolidation are identified, and a list of suggested land consolidation actions is submitted. Meanwhile, the list of suggested activity plans represents the outcome of discussions with the topic of consolidation and other stakeholders. Following that, a pre-block plan for soil consolidation design is created. This plan is based on the traffic circulation plan in terms of land use and development fundamentals.

3. Stage of Establishment

Beginning with the development of a block design plan for land consolidation, which is the outcome of community participation and is based on the previous stage's plan. After an agreement is achieved on the layout of the new plot, land rights are released and supporting papers for the land process (SKPT) or Information on Land History are collected. Additionally, this release is followed by a confirmation of the land as the subject of consolidation. Each land consolidation member is expected to provide a portion of their property as a Land Contribution for Development (STUP). This STUP is subsequently utilized as Land Replacement for Implementation Costs (TPBP) and to construct infrastructure and facilities by the government/third party (as the executor of land consolidation).

STUP calculations continue to utilize a straightforward approach. The area required for STUP is a proportion of the participant's total land parcel area. In general, land is located similarly across a project to ensure that it contributes the same amount. This contribution cannot be estimated using pre- and post-consolidation land prices.

4. CONCLUSION

Substantively, it is also necessary to pay attention to a series of stages that contribute to the effectiveness of urban area planning through land consolidation, namely the preparation stage, which is closely related to the location to be selected for land consolidation, and the data collection stage, which addresses the physical and legal aspects of the land consolidation.

5. REFERENCES

- [1] O. Sitorus, *Keterbatasan Hukum Konsolidasi Tanah Perkotaan Sebagai Instrumen Kebijakan Pertanahan Partisipatif dalam Penataan Ruang di Indonesia*. Yogyakarta: Mitra Kebijakan Tanah Indonesia, 2006.
- [2] Y. Setiawan, *Instrumen Hukum Campuran (Gemeenschapelijkrecht) dalam Konsolidasi Tanah*. Jakarta: Rajawali Press, 2009.
- [3] Depri Liber Sonata, "Metode Penelitian Hukum Normatif dan Empiris: Karakteristik Khas dari Metode Meneliti Hukum," *Fiat Justitia J. Ilmu Huk.*, vol. 8, no. 1, 2014.
- [4] B. P. Nasional., *Peraturan Kepala Badan Pertanahan Nasional Nomor 4 Tahun 1991 Tentang Konsolidasi Tanah*. 1991.
- [5] A. Ramadhona, "Pelaksanaan Konsolidasi Tanah Perkotaan Untuk Pembangunan Jalan By Pass Di Kota Bukittinggi," *JCH J. Cendekia Huk.*, vol. 3, no. 1, 2017.
- [6] Hasni, *Hukum Penataan Ruang dan Penatagunaan Tanah*. Jakarta: Rajawali Pers, 2008.
- [7] J. Ridwan, *Hukum Tata Ruang*. Bandung: Nuans, 2008.
- [8] NKRI, *Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-pokok Agraria*. 1960.
- [9] NKRI, *Negara Kesatuan Republik Indonesia. Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang*. 2007.
- [10] NKRI, *Negara Kesatuan Republik Indonesia. Undang-Undang Nomor 1 Tahun 2011 tentang Perumahan dan Permukiman*. 2011.
- [11] Peraturan Pemerintah, *Peraturan Pemerintah Nomor 16 Tahun 2004 tentang Penatagunaan Tanah*. 2004.
- [12] B. P. Nasional, *Peraturan Kepala Badan Pertanahan Nasional*. 1991.
- [13] Waksito and H. Arnowo, *Pertanahan, Agraria, dan Tata Ruang (Cetakan Ke-I)*, I. Jakarta: Kencana, 2017.
- [14] D. Conyers, *Perencanaan Sosial di Dunia Ketiga (terjemahan dari Susetiawan dan Affan Gaffar)*. Yogyakarta: Gadjah Mada University Press, 1984.
- [15] A. Sutedi, *Tinjauan Hukum Pertanahan*. Jakarta: Pradnya Paramita, 2009.