

Analysis of Legal Protection for Land Owners Against Land Mafia Practices in Indonesia

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Abstract

This research explores the issue of legal protection for land rights owners involved in land mafia practices in Indonesia. This research emerged because of the existence of crimes related to land mafia practices, and from a formal legal perspective, it is important to determine the steps and protections needed for victims who are trying to maintain ownership of their land rights from the actions of the land mafia. This research aims to examine legal protection against land mafia practices by utilizing a descriptive approach in the research specifications. The method used in writing this article is normative legal research methods. Normative legal research is analyzing the application of law which is carried out by examining legal materials such as research on legal principles, positive law, legal rules and legal rules. The findings from the research show that legal protection efforts for land owners, apart from the government and law enforcement officials, can provide a solution to dealing with land mafia cases in Indonesia. The conclusion that can be drawn is that the criminal practices of the land mafia, which involve many parties and often include falsifying data on land certificate owners, require significant changes in order to prevent land mafia actions that disturb the community. This is also important so that perpetrators can be held accountable in accordance with applicable regulations. The limitations of the research in this paper only focus on legal protection for owners of land rights caused by the rampant land mafia in Indonesia. The value of this writing is to develop knowledge among the public and law enforcement officials regarding legal protection for land rights owners, which is currently common in Indonesia.

Keywords: *Legal Protection, Land, Land Mafia.*

I. INTRODUCTION

Land is a basic need in carrying out human productive activities, both as a container and as a production factor. Land currently in use must be registered for land rights or land ownership rights. The origin of the word land registration comes from Dutch, namely Rechts Cadastre which means it is related to the area, value and ownership of land.

Soil is a natural resource that is very important for human life. Therefore, Article 33 paragraph (three) of the 1945 NRI Constitution states that the earth and water and the natural resources contained therein are controlled by the state for the greatest prosperity of the people. Other natural resources do not belong to one particular group,

but belong to all of us as a nation. The state, being the holder of supreme power over the entire nation, is responsible for regulating land use to promote the prosperity of all parts of the country, not a particular group.¹ Apart from that, land or land rights have a social function. This function can be a facilitation function or a control function.

Some of the most popular land cases recently seen, both in print and online media, one of which is the land mafia. Land mafia refers to joint involvement between officials with authority and other individuals with malicious intent to harm the state and society, with the aim of controlling or occupying land illegally. Often, land mafia practices are carried out in corruptive ways. In its implementation, the land mafia generally uses organized crime methods, including falsifying land documents, manipulation in court to obtain land rights, as well as making agreements involving public officials such as PPAT Notaries and State Civil Apparatus within the National Land Agency and its higher agencies. low level, as well as law enforcers such as judges. Both the implementers and law enforcers may act as part of the Land Mafia's performance network, or they may simply be victims of land mafia activities.

Based on existing facts and phenomena, there are several factors that cause the emergence of land mafia practices, including lack of supervision, lack of law enforcement, and deficiencies in transparency. In addition, land is considered a profitable investment with high economic benefits, and demand for land continues to be high among the public. Basically, the initial gap for the emergence of the land mafia lies in vulnerabilities in the land registration legal system which can be manipulated and are difficult to deny. Therefore, the impact of the existence of the land mafia in the land sector is not only detrimental to the individuals or legal entities who are victims, but also threatens legal order and hampers investment inflows and economic growth. Land mafias often exploit land scarcity and related parties for their personal gain. Therefore, the existence of the land mafia must be addressed and punished firmly by the government and law enforcement officials, as a form of firmness against the perpetrators of the land mafia.

The increase in land cases is currently becoming a consolidated risk without any preventive action or systematic approach to this problem, especially in the context of security, justice and the realization of victims' human rights. Therefore, in cases of land disputes, land rights owners are expected to be able to obtain legal protection through a fair and just judicial process. In this regard, the government's responsibility

¹ Nurhasan Ismail, "Political Direction of Land Law and Protection of Community Land Ownership," *Rechts Vinding Journal: National Legal Development Media* Volume 1, no. 1 (2012): 33-52., <https://doi.org/10.33331/rechtsvinding.v1i1.105>

is to find solutions to community issues, so that legal protection can be given to those who have legal rights to land or who have original land certificates that are misused by irresponsible parties.

Therefore, the existence of irresponsible individuals or groups, or what is known as the land mafia, must be watched out for. This shows the importance of the government and law enforcement showing firmness in responding to land issues seriously, so that no one will take land issues lightly and can create prosperity for the Indonesian people. Based on the background of the problems described, the author aims to understand and understand the practices of the land mafia, as well as understand and implement legal protection for land rights owners from the practices of the land mafia in Indonesia.

II. LITERATURE REVIEW

Land mafias can be described as groups of individuals who attempt to acquire or own land that is actually owned by others through various illegal acts. In practice, the perpetrators involved in land mafia practices attempt to achieve their goals through organized, structured and planned methods, which of course involve violations of applicable laws. The existence of conflicts that arise as a result of illegal land control and ownership can have fatal impacts and even harm human life. The emergence of land mafias is often triggered by weaknesses in supervision and law enforcement, as well as a lack of transparency in the system.

In another interpretation, the land mafia can also consist of two or more people who seek to gain power over land owned by other individuals. Land mafias often use various methods, such as creating fake documents, illegal occupation of land, legalization efforts through the justice system, collusion to obtain legality together with certain individuals, creating planned incidents, erasing other people's property rights to land, and committing acts of fraud. and embezzlement involving crimes together with an organizational or corporate body.

III. METHODOLOGY

In collecting the data and materials needed to answer the problem formulation in this research, a normative juridical approach method was applied. The normative juridical approach used in this writing focuses on the application of the rules or norms contained in positive law to evaluate the problems being discussed. This approach discusses, analyzes and explains the issues raised, as well as identifying the concepts and principles contained in the relevant laws and regulations. In this research, the legislative approach refers to the Criminal Code (KUHP), the Basic Agrarian Law, and

other regulations relevant to the research. Analysis of legal materials is carried out by combining prescriptive and deductive methods, which are based on general data, legal principles, theories and statutory regulations which are arranged systematically as an arrangement of legal facts. The purpose of this analysis is to evaluate legal protection for land rights owners from land mafia practices. The data analysis process uses qualitative juridical methods, where the data obtained is arranged qualitatively to present systematic facts as a composition of legal information. This was done to answer the problems discussed and help formulate conclusions from this research.

IV. RESULT AND DISCUSSION

A. Land Mafia Case in Indonesia

Land is one of the subjects regulated in Agrarian law, however, the focus of Agrarian law does not involve land in all its aspects, but is more focused on land from a legal perspective which is directly related to ownership of land rights as an integral part of the earth's surface. The limited land available and the high number of capital owners cause concern for land rights owners, because the practice of land mafias using various methods is increasingly widespread in an effort to gain control over the land.

The presence of the land mafia has caused a number of problems and conflicts related to land. The term "land mafia" refers to individuals, groups or organizations who deliberately seize other people's land rights, with the aim of carrying out criminal acts that can hinder the process of handling land cases. Land cases include land disputes, conflicts or cases that are reported to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, as well as the authorized regional offices of the National Land Agency, to receive handling and resolution in accordance with the provisions of statutory regulations. Based on existing facts and phenomena, several causes of land mafia practices include lack of supervision, lack of law enforcement, and lack of transparency.

In addition, land is considered a profitable investment because it provides high economic benefits and is always needed by society. One of the main loopholes that has triggered the emergence of the land mafia is the existence of a land registration legal system that is easily manipulated and difficult to account for. Therefore, the impact of the existence of the land mafia in the land sector is not only detrimental to the individuals or legal entities who are victims, but also results in legal instability and hinders the entry of investment and economic growth. The land mafia uses various methods to control land, including buying land from the public

at low prices that is being developed on state land, so that they also gain control over land rights that are not regulated in applicable law.

In fact, various loopholes become opportunities that are exploited for certain purposes, which often involve falsifying ownership documents. This situation can result in conflicts and land disputes arising in society, which ultimately has the potential to cause material and immaterial losses for Indonesia. Thus, losses resulting from land mafia actions not only hinder the resolution of land cases, but also contribute to social and economic losses. Land that does not have proof of ownership in the form of a certificate, as well as the low level of public awareness of registering land ownership in the form of a title certificate, is an opportunity for the land mafia to create fake documents regarding land ownership rights. Therefore, efforts are needed from the government and law enforcement officials to overcome the problem of land mafia cases in Indonesia.

B. Analysis of Legal Protection for Land Owners Against Land Mafia Practices in Indonesia

From a formal legal perspective, actions that harm the state are considered criminal acts. Therefore, any action that is declared illegal according to law must be avoided, and violations will be subject to sanctions in accordance with applicable legal regulations. Violation of land rights refers to actions that violate these rights as explained in Article 16 jo. Article 53 of the Basic Agrarian Law (UUPA). In this context, the term land law is also defined as the law that regulates land ownership, including a number of authorities, responsibilities and/or restrictions relating to a person's right to use land which is reflected in their ownership. If someone commits an action related to land and violates applicable laws and regulations, then that person may be subject to criminal penalties in accordance with applicable laws.

The use of the Agrarian Law as a tool to eradicate land mafia practices has not been implemented effectively. Therefore, law enforcers often face various obstacles when dealing with problems related to the land mafia. Their duties not only include identifying land mafia problems, but also reporting any untruths in the legalization of land ownership documents. Legal certainty, especially regarding sanctions for land mafias in resolving land conflicts and disputes, has important significance for society. This aims to guarantee the security of their land rights and provide balanced legal justice to the entire community. To achieve this, strict law enforcement is needed in handling land conflicts and disputes, as well as the implementation of relevant laws as a guide to provide strict sanctions to land mafia

perpetrators who disturb the community, especially land owners. Land owners themselves also need to get legal protection so that they do not suffer losses due to the practices of the land mafia. Firmness is needed from law enforcement, especially from officials who have authority. In carrying out their duties, the Ministry of Agrarian Affairs and ATR/BPN are trying to eradicate land mafia practices by collaborating with the Indonesian Police and the Attorney General's Office to form a special task force to tackle the land mafia. The Ministry of Lands has carried out land certification through the Free Land Certificate Program (PTSL) for all land in Indonesia.

Legal protection for land owners is regulated in the Basic Agrarian Law (UUPA) Number 5 of 1960, which aims to ensure that holders of land rights receive adequate protection. UUPA has various aspects, one of which is land registration which is closely related to protecting citizens' property rights to their land and protecting land owners whose rights are valid. In other words, ownership of land rights recorded in the certificate has important significance for the individual who owns those rights. The certificate functions as legal evidence and an authentic deed that protects ownership of an object, namely land, in accordance with the provisions of the Law.

Even though there are several laws and regulations in force, government intervention is still unable to effectively protect land owners from land mafia crimes, especially because the land mafia continues to bribe government officials in order to win cases. Apart from that, to protect people who are victims of land mafia practices, it is necessary to provide criminal sanctions against elements of the land mafia who are deemed to have violated applicable regulations. Even though land matters are actually included in the civil realm, with proper criminal law enforcement, land mafia practices can be eliminated, especially if the losses incurred reach significant amounts, even reaching hundreds of millions to billions of rupiah. Therefore, it can be seen how crucial just agrarian reform is. If this reform can be implemented well, it will bring positive benefits to the lives of people who are very dependent on the land aspect.

If a land dispute reaches the criminal stage in court, in the Criminal Code (KUHP), anyone who violates applicable prohibitions or regulations can be subject to criminal law. However, the condition is that the prohibition must be related to actions caused by someone's behavior so that criminal sanctions can be imposed on the person who commits the criminal act.

Regarding land mafia practices, there is no law that specifically regulates the land mafia itself. However, the law regulates the methods or actions they take to obtain

rights to the land. Various actions often carried out by the land mafia can be subject to the following legal provisions:

1. Crimes of forgery of letters or documents are regulated in Articles 263, 264, 266 and 274 of the Criminal Code, respectively.
2. The crime of land grabbing is regulated in Article 167 of the Criminal Code.
3. The crime of embezzlement of rights relating to immovable property such as land, houses, rice fields. This crime is often referred to as the crime of *stellionaat* which is regulated in article 385 of the Criminal Code.
4. Crimes of giving perjury and false statements as regulated in Article 242 of the Criminal Code. What is meant is Ordering to enter false information into an authentic deed.
5. Article 52 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA).
6. Article 6 of Law Number 51 /Prp/1960 concerning the prohibition of using land without the permission of the rightful person or their authority.

Thus, Indonesian President Joko Widodo (Jokowi) has specifically ordered law enforcement agencies, namely the Indonesian National Police (Polri) and the Indonesian Attorney General's Office, to increase their effectiveness in eradicating land-related crimes. However, efforts to eradicate the land mafia do not only involve law enforcement, but also involve the role of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) which has participated in forming the Anti-Land Mafia Task Force (Satgas) since 2017.

V. CONCLUSION


Based on the discussion and research results presented by the author, it appears that even though there are land regulations, without effective law enforcement, everything becomes useless. Therefore, the land mafia can still find ways to carry out their actions. For this reason, it is important to have proof of land rights that are guaranteed and protected. By having a valid land certificate, it is hoped that the community will be more careful in appointing individuals or parties who are entrusted with maintaining and managing land documents to avoid misuse. Considering that land mafia criminal practices involve many parties and often involve falsifying data on land certificate owners, significant changes are needed to prevent land mafia practices that can disrupt order and disturb the community. Apart from that, the perpetrators must also be held accountable in accordance with applicable legal provisions.

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