

ROLE MODEL OF AGRARIAN REFORM IN SPATIAL PLANNING AT NORTH JAKARTA

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ABSTRACT

The implementation of Agrarian Reform in Indonesia is the mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia (UUD 1945), which states that the State's economy is structured and appointed for the prosperity of the people by developing forms of populist economy. The implementation of Article 33 paragraph (3) of the 1945 Constitution then gave birth to the Basic Agrarian Law (UUPA), which explicitly regulates the implementation of national Land in Indonesia. However, the UUPA still needs to regulate Agrarian Reform. What is regulated is Land reform, the primary purpose of land reform is to reorganize the legal structure of Land and buildings. New land structures for agricultural Land in rural areas throughout the Republic. Then there was a conceptual shift in its development. Agrarian reform was then developed dynamically and consistently by the Government, where agrarian reform was implemented to rearrange the structure of control, ownership, use, and utilization of more equitable Land through Asset Management and Access Management for prosperity. For the people of Indonesia, the object of the Reformation included non-agricultural Land for urban areas. In its implementation, agrarian reform has a significant challenge related to the realignment of agricultural policies and resources by spatial planning not to endanger people's lives in the future. This research will analyze the concept of agrarian reform implemented for spatial planning in urban areas, namely North Jakarta City. This research is expected to be input in policy making and improvement of Agrarian Reform policies so that their implementation can be by spatial planning that is environmentally sound, especially in the Republic of Indonesia. This research is descriptive normative field research so that the results of the study will answer the problems by the conditions in the field obtained related to how the implementation of agrarian reform role models in 7 villages in North Jakarta City and how the implementation of agrarian reform in urban areas should be so that they can become role models for the realignment of agricultural resources in urban areas. For Indonesia and the World, locations that become the Role model for Agrarian Reform implemented by the Government in urban areas for spatial planning are 6 villages in North Jakarta City.

Keywords: Role Model Reforma Agraria; Reforma Agraria in Urban Area; Environmental Management;

INTRODUCTION

Agrarian reform, or Agrarian Reform in the Decree of the People's Consultative Assembly of the Republic of Indonesia No. IX of 2001 (TAP MPR IX/2001) concerning agrarian reform, is an agrarian policy reform activity with two main objectives, namely how to achieve higher productivity, and how to achieve justice.¹ In Article 2 of TAP MPR IX/2001, the definition of agrarian reform is stated as an activity of implementing agrarian reform which includes a continuous process related to realigning control, ownership, use, and utilization of agrarian resources which is carried out for the sake of

¹ People's Consultative Assembly Number IX/MPR/2001 Of 2001 Concerning Agrarian Reform and Natural Resources.

certainty and protection, justice and prosperity for all Indonesian people.² Presidential Regulation Number 86 of 2018 concerning Agrarian Reform (PER PRES 86/2018) in Article 1 number 1, states that agrarian reform is an activity or process of restructuring the structure of control, ownership, use, and utilization of land that is more equitable by implementing asset management and agrarian access for the prosperity of the Indonesian people.³

Agrarian Reform will design various renewal requirements that can have a positive impact on the agricultural and non-agricultural sectors, for example in the form of credit, price regulation, procurement and data collection, cooperatives, and so on. Many argue that the non-optimal implementation of agrarian reform in Indonesia is because it was not preceded by land reform, whereas it is not because of this, but because it has not been officially regulated on the legal basis for implementing agrarian reform in Indonesia. Thus, the organic legal basis of agrarian reform is not the UUPA. Land reform and UUPA are conceptually two different concepts. So that until now agrarian reform does not have a concrete legal basis at the level of the law.

The principles of agrarian reform implemented in Indonesia include:⁴

- a) Land for actual cultivators;
- b) Land is not a commercial commodity, or functioned as an object of buying and selling for mere profit;
- c) Monopoly of social functions on land is prohibited.

The main objectives of Agrarian Reform are as follows:⁵

- a) Improving the inequality of agrarian structures to be more equitable through redistribution of control, use, and use of land for the poor and smallholders or landless farmers in rural areas;
- b) Resolving agrarian conflicts that occur throughout Indonesia;
- c) Creating a basis for productive forces by the community based on land use and utilization (agriculture, plantations, livestock), as well as added value from the sale of harvest and;
- d) restoring ecological balance through land use and sustainable management of agrarian resources

The idea of agrarian reform in Indonesia historically started after the birth of the UUPA, the government at that time focused its activities on structuring and redistribution of agricultural land known as land reform which is the core of agrarian reform. Land reform is a sustainable, continuous, and regular activity to rearrange land ownership, especially agricultural lands.

As previously stated, agrarian reform is a systematic and planned effort that is carried out quickly in a certain and limited period to create prosperity and social justice as well as pave the way for the formation of a new democratic and just society that begins with steps to reorganize control, the use, and utilization of land and other natural resources, which are complemented by other supporting programs to optimize the productivity of farmers and society in general.⁶ The essence of agrarian reform is land reform related to the notion of redistribution of land ownership and control along with all its supporting programs.⁷ The main objective of agrarian reform is to seek the realization of social justice in this case agrarian justice or agrarian justice, to increase the productivity and welfare of people.⁸ True agrarian reform will make an important contribution to the democratization process in

² Agrarian Reform at a glance”, on the band website, [HTTP/www.bin.go.id/program-Agraria](http://www.bin.go.id/program-Agraria) (accessed September 3, 2015), in echoes of justice, Journal Edition, volume 2, 1st edition, September 2015, accessed 25 September 2019, 19.00.

³ Presidential Regulation of the Republic of Indonesia Number 86 of 2018 concerning agrarian reform Paragraph 1 number 1.

⁴ Noer Fauzi Rachman, et al. Agrarian Reform White Paper (Agrarian Reform Realizing National Independence), (Jakarta: Agrarian Reform Consortium, 2014), 5.

⁵ *Ibid.*,

⁶ Eric Eckholm, “Displaced People, Land Reform and Steady Development”, in Insights Series, 28-62.

⁷ MPR RI Decree on Agrarian Reform as a State Commitment to Move Change towards a Better Indonesia, input from the Agrarian Reform Study Group Presented to the Working Body II of the MPR-RI on 21 May 2001.

⁸ *Ibid.*,

every region, especially rural areas which in the context of Indonesia are one of the important bases for the social life of most of the population.⁹

Agrarian reform is currently being carried out by the Government from time to time, but it still causes prolonged conflicts in various places. One of them is because agrarian reforms interpreted as being carried out with land reform so that it only focuses on sub-urban areas with agricultural land objects and has never been carried out in urban areas, let alone the State Capital. Meanwhile, in urban areas, transactions related to land are very fast and growing. The possibility of land conflicts is getting wider.

So the government tries to implement the idea of RA in urban areas to minimize the occurrence of problems related to land. North Jakarta was chosen to be one of the big cities that became the role model for the implementation of this RA. This city was chosen because of the population density and availability of land that is best compared to the purchasing power of the people, causing many settlements and illegal settlements that are not by spatial planning.

The current legal construction of RA also leaves a legal vacuum, where RA is only regulated up to the PER PRES level, and there are no derivative regulations under it or technical regulations as the implementation of the Agrarian Reform PER PRES. So that the implementation of RA in the area that is a role model is carried out using governor regulations or regional regulations, not special RA regulations.

MATERIALS AND METHOD

This research used the Empirical Normative Legal Research Method, which is a research method that will analyze the enforcement of legal norms in society. Analyzing primary and secondary data using qualitative analysis, namely by describing primary data obtained from interviews with communities related to problems in the field, and secondary data obtained by studying the rules, regulations, norms, literature, and expert opinions regarding the legal rules used in this study.

Primary data will be obtained from:

- a. The community is the one who holds the land certificate which will be chosen purposively;
- b. Opinion or stance of the official implementing the provisions on land registration;
- c. The opinion or stance of the judges who decide cases.

The secondary data referred to by Soerjono Soekanto, then the secondary data are:¹⁰

- a. Primary Legal Materials: laws and regulations, policy rules, and court decisions related to land registration systems;
- b. Secondary Legal Materials: obtained from drafts of improving the RPP for Land Registration, and other relevant drafts of regulations as well as authoritative land registration papers in land registration;
- c. Tertiary Law Materials: legal dictionaries both in internal agrarian/land, national and international agencies.

RESULTS AND DISCUSSION

Role Model Agrarian Reform in 5 Villages of North Jakarta City Related to Spatial Planning

1. Legal Basis

This legal basis relates to basic policies for the implementation of agrarian reform in urban areas. Directly related to government policies and authorities in the land sector and related to other legal products related to land and environmental management.

- a) **TAP MPR RI. NO. IX/MPR/2001 concerning Stipulations of the People's Consultative Assembly of the Republic of Indonesia concerning Agrarian Reform and Natural Resource Management.**

⁹ Sediono MP Tjondronegoro and Gunawan Wiradi, *Patterns of Land Tenure and Agrarian Reform*, in *Two Centuries of Land Tenure in Indonesia: Agricultural Land Tenure Patterns in Java from Period to Period*, (Jakarta: Gramedia, 1984), 312-313.

¹⁰ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research a Brief Review*, Second Printing, Publisher (Jakarta: CV. Radjawali, 1986), 14-15.



Article 1: states that 'This MPR TAP is the basis for legislation on agrarian reform and natural resource management.

Article 2: states that Agrarian reform includes a continuous process about Realignment of control, ownership, use, and utilization of resources agrarian affairs is carried out in the context of achieving legal certainty and protection as well as justice and prosperity for all Indonesian people.

Article 4: The state regulates the management of agrarian resources and natural resources to the greatest extent possible people's prosperity.

Article 5: Agrarian reform and natural resource management must be carried out in accordance with principles:

b. respect and uphold human rights; realizing justice in the control, possession, use,

f. utilization, and maintenance of agrarian resources and natural resources;

h. carries out social, sustainability, and ecological functions by

Local socio-cultural conditions;

Article 6: (1) states that the Agrarian Reform Policy Directions are: Carry out the realignment of control, ownership, use, and equitable use of land (land reform) by taking into account the land ownership for the people, both agricultural land and urban land.

b) Presidential Regulation Number 86 of 2018 concerning agrarian reform.

PERPRES 86/2018 This was then used as a guideline for the Provincial Government of DKI Jakarta and outlined in the Governor of DKI Jakarta Decree 162 jo 574/2019 concerning the Agrarian Reform Task Force.

Article 1 (1) Agrarian Reform is a restructuring of the structure of control, ownership, more equitable use, and utilization of land through Asset Management and accompanied by with Access Arrangements for the prosperity of the Indonesian people.

Article 1 (2) Asset Management is a realignment of control, ownership, use, and use of land in the context of creating justice in the field of control and land ownership

Article 1 (3) Access Arrangement is the provision of opportunities for access to capital and assistance others to the Subjects of Agrarian Reform to improve welfare based on land use, which is also called community empowerment.

Article 1 (4) Land for Agrarian Reform, hereinafter abbreviated as TORA, is an island controlled by the state and/or land already owned by the community for redistribution or legalization.

Article 1 (5) Agrarian Reform Subjects are TORA recipients who meet the requirements and are set to receive TORA.

Article 1 (7) Land rights are rights and obligations arising from the legal relationship between rights holders with land, above-ground space, and/or underground space for control, own, use, and utilize the land in question, including also, the underground space, water, and the space above it are only needed for the benefit of directly or indirectly related to its use.

Article 1 (8) Joint Ownership Rights on Land are property rights granted to community groups residing in a certain area on several parcels of land that are jointly owned and issued a certificate containing the name and amount of each share of the common right, which is passed on to one of the rights holders the joint property upon the written appointment of the other joint rights holders.

Article 1 (11) Land Consolidation is the arrangement of control, ownership, use, and land use by the regional spatial plan, as well as the provision of land for development interests, to improve environmental quality and maintenance of natural resources by involving the active participation of the community.

Article 1 (12) Social Mapping is an activity of leveraging demographic, geographic, and spatial data and other information toward one location



- Article 1 (13) Land Capability is the grouping of potential physical elements of the area for land use.
- Article 1 (15) Building rights, hereinafter referred to as HGB, is the right to land as referred to in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles.
- Article 6 it is stated that the Asset Management as referred to in Article 5 paragraph (1) letter a consists of:
 - a. land redistribution; or
 - b. asset legalization.
- Article 7(1) The object of land redistribution as referred to in Article 6 letter an includes (among others);
 - a. HGU and HGB land whose validity period has expired and are not requested for extension and/or are not requested for the renewal of their rights within 1 (one) year after the rights expire;
 - e. State land, formerly abandoned land which is utilized for the benefit of society and the state through Agrarian Reform;
 - i. land that meets the requirements for strengthening people's rights to land, including:
 - 2) Consolidated land whose subject meets the criteria for Agrarian Reform
 - 4) State land that has been controlled by the community.
- Article 11 (1) The object of land redistribution that has been determined as referred to in Article 8 used and utilized by:
 - b. land suitability; and
 - c. spatial plan.
- Article 14 (1) The object of legalization of assets that have been determined as referred to in Article 13 paragraph (41) given to Agrarian Reform Subjects through the following mechanisms:
 - a. transmigration land certificate; and
 - b. community land certificates.

c) Law Number 17 of 2007 concerning the National Medium-Term Development Plan of 2005-2025.

In the realization of the RPJM in 2015-2019, the Ministry of Agrarian and Spatial Planning/ National Land Agency is promoting the restructuring of land tenure structures by organizing land redistribution by Presidential Regulation Number 2 of 2015 concerning Comprehensive and Comprehensive Agrarian Reform, namely the target is not only land. Agriculture, but all agrarian resources, apart from that land reform activities, must be accompanied by supporting programs such as counselling or training for human resources.

2. The Implementation of Role Model Agrarian Reform in 5 Villages of North Jakarta City Related to Spatial Planning

Agrarian reform can be defined as a systematic, planned and carried out relatively quickly, within a certain and limited period of time, to create prosperity and social justice as well as pave the way for the formation of a new democratic and just society that begins with steps to reorganize control, use and utilization of land and other natural resources, followed by a number of other supporting programs to increase farmer productivity in particular and the people's economy in general. The essence of agrarian reform is land reform in the sense of redistribution of land ownership and control. However, land reform will not be successful if it is not supported by supporting programs such as irrigation, credit, extension, education, marketing, and so on.¹¹ Tuma stated his conclusion that "land

¹¹ Decree of the MPR RI on Agrarian Reform as a State Commitment to Move Change towards a Better Indonesia, input from the Study Group on Agrarian Reform Presented to the Working Body II of the MPR-RI on 21 May 2001.

reform" in a broad sense can finally be equated with "agrarian reform" (agrarian reform), which is an attempt to change the agrarian structure for the purpose of achieving the goals as mentioned above, so agrarian reform can be interpreted as land reform plus. In other words, the main goal of agrarian reform is the creation of social justice which is characterized by agrarian justice, increased productivity and increased welfare of the people. The existence of agrarian justice can be interpreted as a condition of land tenure structure that relatively does not show inequality so as to provide opportunities for the creation of distribution and strengthening of people's economic activities in rural areas and then become the reason for the active participation of the majority of the population who in fact depend on agricultural activities to always be involved in agricultural activities. National development both socially, economically and politically. That is why, for a long time, many experts have believed that real agrarian reform will make an important contribution to the process of rural democratization, which in the context of Indonesia is one of the important bases for the social life of a large population.¹²

The principles of spatial planning according to Article 2 of Law 26/2007 are:

- a) The principle of integration, namely spatial planning is carried out by combining various interests that are cross-sectoral, cross-regional, and cross-stakeholder (Government, Regional Government, and the community);
- b) The principle of harmony, harmony, and balance, namely the implementation by realizing harmony between spatial structures and spatial patterns, harmony between human life and the environment, balance in growth and development between regions and between urban and rural areas;
- c) The principle of sustainability, namely spatial planning is carried out by ensuring the preservation and preservation of the environment and taking into account the interests of future generations;
- d) The principle of usability and usability, namely spatial planning is carried out by optimizing the benefits of space and the resources contained therein and ensuring the realization of quality spatial planning;
- e) The principle of openness, namely spatial planning is carried out by providing broad access to the public to obtain information;
- f) The principle of togetherness and partnership, namely spatial planning is carried out by involving all stakeholders;
- g) The principle of protecting the public interest, namely spatial planning is carried out by prioritizing the interests of the community;
- h) The principle of legal certainty and justice, namely that spatial planning is carried out on a legal basis by taking into account the sense of community justice and the rights and obligations of all parties fairly for legal certainty; as good as
- i) The principle of accountability, namely the implementation of spatial planning can be accounted for.

Agrarian reform and spatial planning are two things that are the focus of the Government of the Republic of Indonesia in the National Strategic Program (PSN), one of which is organized by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN). The North Jakarta City Land Office which is included in the DKI Jakarta Provincial Land Office area also makes efforts to implement agrarian reform and spatial planning, because this area was chosen as a Role Model for implementing agrarian reform in urban areas. Currently, the agrarian reform that is being carried out is by carrying out the Agrarian Reform Task Force (GTRA) activities at the DKI Jakarta Provincial ATR/BPN Regional Office.¹³ GTRA will be carried out according to a predetermined

¹² *Agrarian Reform of Biological Children Agrarian Conflict, Agrarian Conflict of Biological Children "Renewal" Agrarian, papers submitted at the National Seminar on Agrarian Reform, Yogyakarta 16 July 2002, STPN and BPN.*

¹³ Decree of the Minister of Agrarian Spatial Planning/Head of the National Land Agency number 79/SK-LR.07/I/2019 concerning the Establishment of the Central, Provincial, and Regency/City Agrarian Reform Task Forces jo. DKI Governor Decree number 574/2019.

location, namely in the villages of Aquarium, Lodan, Tongkol, Krapu, and Kunir. The implementation will be carried out in 3 clusters.¹⁴

The program for granting rights to cluster 1 is the Kampung Aquarium land which consists of 1 area with an area of 11,446 M² in which there are 241 families.¹⁵ Cluster II is the Grouper Village which consists of 49 plots with an area of 5,060 M² in the village there are 48 heads of families, the base of which is State Land.¹⁶ Lodan Village consists of 50 plots of land with a total area of 32,316 M², in which there are 75 heads of families.¹⁷ The third village in this cluster is Tongkol Village which consists of 46 fields with an area of 3,296 M² in which there are 51 families. In this village the base of the rights is State Land.¹⁸

Cluster III is Kunir village which consists of 1 plot with an area of 2,200 M² in which there are 33 Heads of Families, in this village the basis of the rights is the Right to Use the DKI Jakarta Provincial Government.

There is a very clear conflict between the government and the community, where there are various regulations in other agencies that are directly related to urban planning, one of which is about river border regulations, the provisions of Article 7 of the Minister of Home Affairs. The Ministry of Public Works and Public Housing of the Republic of Indonesia Number 28/Prt/M/2015 concerning Determination of River Boundaries and Lake Boundaries, states that river boundaries in urban areas are set at least 3 (three) meters. from the outer edge of the embankment foot along the river channel.

So it is very unlikely that the community will be given ownership rights to villages, most of which are included in border regulations, the community in this case must be given an understanding that the realignment of agrarian assets or agrarian reform does not mean that the community will be given ownership rights to land one by one, but the Government will seek solutions that do not violate legal policies. Therefore, the construction of flats is the best solution that the government can do to relocate the aquarium village community without violating the applicable laws in Indonesia regarding agrarian reform. So that the rights that will be given to the community will be adjusted to the origin of the land that will be given by the government to be inhabited by the community.

The directions for the regional spatial plan related to land reform and registration for the DKI Jakarta Province are as follows:¹⁹

- a) For the Aquarium Village, which is located in subzone P.3 (Local Government), has a cultural heritage building or castle that has been buried in the ground and is part of the Old Town Master Plan, subzone P.3 for Flats activities is allowed on condition.²⁰

This is the new condition about this village:



¹⁴ DKI Jakarta GTRA Implementation Module, DKI Jakarta Provincial BPN Regional Office.

¹⁵ *Ibid.*,

¹⁶ *Ibid.*,

¹⁷ *Ibid.*,

¹⁸ *Ibid.*,

¹⁹ Academic Paper of GTRA DKI Jakarta

²⁰ *Ibid.*,

This is the old condition before Reforma Agraria based on source of DKI Jakarta GTRA Academic Paper:



- b) For Krapu village is located in subzones P.1 (Offices, Trade and Services) and B.1 (Blue Open), there is a road structure plan of 15 M2. There has been a revision of the River or Canal Plan which was originally 40 M2 wide to M2. In subzone K.1 for the activities of Very Small Houses, Small Houses, Medium Houses, Large Houses, Public Flats are permitted conditionally, subzone B.1 for activities of Very Small Houses, Small Houses, Medium Houses, Big Houses, Public Flats are not allowed.²¹



- c) For Tongkol Village which is located in subzones K.1 (Office, Trade and Services), B.1 (Blue Open), H.4 (Green Line), There is a 15 M2 structural road plan, a revision of the River or Canal Plan has been made which was initially 40 M2 wide to be 20 M2, 19 M2 and 24 M2. In subzone K.1 activities for Very Small Houses, Small Houses, Medium Houses, Big Houses, Public Flats are conditionally permitted, activities for Very Small Houses, Small Houses, Medium Houses, Large Houses, Public Flats are not permitted, for subzone H. 4 Very Small Houses, Small Houses, Medium Houses, Big Houses, Public Flats activities are not allowed.²²



²¹ *Ibid.*,

²² *Ibid.*,

- d) For Kunir village which is located in subzone P.3 (Regional Government), the existing settlement is on the road plan of 14 M2 with those already built \pm 7 M2, Flats will be in subzone P.3 (Local Government). In subzone P.3 for Flats activities, it is conditionally permitted.²³



Implementation of land policy on the role model of agrarian reform in urban areas for Indonesia and the world

As explained in the previous chapter, the implementation of agrarian reform in Indonesia, especially in the city of North Jakarta, actually does not have a legal basis that is capable of being a basic guide or guide in implementing agrarian reform. Legally, agrarian reform has not been included in the editorial in the UUPA, where the UUPA is a guideline for national land law in Indonesia. Article 7, Article 10, and Article 17 of the UUPA, it is only limited to land reform. Thus, the UUPA as national land law or national guidelines for agrarian law in Indonesia has not been able to provide answers to the agrarian problems that have occurred to date in Indonesia, namely regarding agrarian reform and its implementation. In 2001 agrarian reform was only regulated by TAP MPR IX/2001 and then continued with the issuance of PERPRES 86/2018 on agrarian reform. The existence of the UUPA, TAP MPR IX/2001 and PERPRES 86/2018 is not legitimate that can provide a holistic and comprehensive basis for the implementation of agrarian reform. This is because the UUPA is not a law that specifically regulates agrarian reform, but the UUPA is the basic rule for the administration of national land and agrarian affairs. The PERPRES 86/2018 issued shows that there is a legal vacuum regarding agrarian reform in Indonesia because the MPR Decree alone cannot be the basis for the issuance of a Presidential Regulation, derivative regulations should appear after the main regulations dealing with it, such as the Law on agrarian reform which turned out to be currently never existed. In addition, the PERPRES 86/2018 after being promulgated has not been followed up with an implementing regulation in the form of a ministerial regulation, once again this shows that there is a very clear legal vacuum in terms of regulating agrarian reform. So far, the implementation of agrarian reform has not accommodated non-agricultural land objects located in urban areas, agrarian reform still focuses on non-agricultural land in rural areas.

Moreover, in the fact that in the implementation of agrarian reform in North Jakarta, the people of the villages in North Jakarta were permitted to live on their land or village area by being subject to rent and not owning the land. Then the concept of access to reform is also not clear to improve people's welfare. For example, by giving ownership rights or giving ownership rights to flat units to the community which can then be used to improve their welfare, for example making ownership rights to their land to seek business capital in banking, because the implementation of this agrarian reform is intended not only to provide assets on land but also access that allows people to improve their economy and their lives.

So it can be concluded that the role model of agrarian reform implemented in North Jakarta City at this time is not yet ideal, both in terms of legitimacy and implementation for agrarian reform that is expected by the government and the community, namely for structuring agrarian assets and access.

²³ *Ibid.*,



The existence of the community's obligation to rent the land they live in makes the performance of the implementation of agrarian reform dull because it no longer fights for the welfare of the people but rather secures state and regional assets by applicable spatial and environmental regulations.

The community should feel helped by the agrarian reform in North Jakarta City, areas that were previously unorganized when they can be repaired will be adjusted to a decent and environmentally friendly standard of living so that they are comfortable as a place to live, then for areas that should be relocated because related to the spatial plan for regional development, a comfortable and safe replacement residence will be provided. However, in reality, the arrangement carried out by the government still leaves confusion and difficulties for the lives of the people themselves, the villages that have been evicted are not yet clear with certainty where they will be relocated entirely, and development has not yet been completely completed. The concept of renting given by the government adds to the burden of living for the village community, which incidentally has a weak economy. The implementation of agrarian reform in North Jakarta has not been maximized as desired.

To provide solutions to the Government regarding public demand for land and building ownership, there are 2 concepts of transfer of rights that can be taken into consideration:

a) Lease-Buy Concept

The lease-purchase agreement is an anonymous contract (innominate contract). In Book III of the Civil Code, there is only one article that regulates innominate contracts, namely Article 1319 Jo. Article 1338 of the Civil Code.²⁴ The innominate agreement arises because of the principle of freedom of contract, where the principle of freedom of contract allows a person to agree outside of what is stated in the Civil Code as long as the agreement does not violate the legal requirements of an agreement, the legal principles of the agreement, and must not conflict with the law, order general principles, morality and propriety (Article 1320 of the Civil Code) and this is the first condition for a lease-purchase agreement. So it can be concluded that the lease-purchase agreement is an agreement regarding the sale and purchase of objects in a certain way, where the ownership rights on the object of sale and purchase only transfer from the seller to the buyer after the price has been paid in full by the buyer to the seller, this agreement is made in writing either by notarial deed or under the hand.²⁵

Similar but not the same as the rules of borrowing and borrowing that we usually call credit. In the lease-purchase system, the goods are already in the hands of the debtor or consumer (*feitlijkelevering*) with partial payment, but there is no legal transfer of rights (*juridische levering*). By law, the transfer (*juridische levering*) only exists or can be carried out after the final payment or settlement of the price of the goods that have been determined.

In the case of this lease-purchase agreement, the institution that represents the community is required to pay a certain price according to the agreement for their land and place of residence, for example by using a cooperative. Based on Article 10, it is stated in Paragraph (1) letters a and b, that the cooperative business is a business that is directly related to the interests of members and improves the business and welfare of the community. Government Regulation of the Republic of Indonesia Number 7 of 2021 concerning Convenience, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises. Thus, as long as the cooperative has not completed full payment to the Government for the land and buildings intended for the relocation of the community, the Government will not transfer any rights to the ownership and management of the land and buildings. The transfer of rights to land and buildings will be carried out by the government to cooperatives, after which the cooperatives will divide land ownership and build to the community based on strata title rights or certificates of ownership rights to flat units (SHMSRS).

It is stated in Article 1 point 1 of Law Number 20 of 2011 concerning Flats that Flats are multi-story buildings that are built in an environment which is divided into functionally structured parts, both horizontally and vertically, and is units, each of which can be owned and used separately, especially

²⁴ Salim H.S, Development of Innominate Contract Law in Indonesia, (Jakarta: Sinar Graphic 2008),5.

²⁵ *Ibid.*,



for dwellings that are equipped with shared parts, shared objects, and shared land. In number 12 it is also explained that the certificate of ownership of the condominium building, hereinafter referred to as SKBG of a condominium unit, is proof of ownership of the condominium unit on a state or regional property in the form of land or waqf land by way of lease. It is this rental procedure that needs to be made special rules that will become the connecting thread for the enactment of the lease and purchase of lands for agrarian reform objects in Indonesia.

b) The Grant Concept

The second concept that can be used as input for the Government grants. A word grant is a masdar form of the word Wahba used in the Qur'an and its derivative words 25 times in 13 letters. Wahabi means giving, and if the subject is Allah, it means giving gifts or giving (Surah Ali Imran, verse 8, Maryam, verse 5, 49, 50, and 53).²⁶ Grants according to positive law are regulated in the Civil Code, grants are regulated in Article 1666, namely: "A grant is an agreement by which the donor, during his lifetime, free of charge and irrevocably, submits an object for the grantee who receives the grant. That submission. The law does not recognize other grants among living persons".²⁷ Grants in the Civil Code are classified as free agreements aimed at the achievement of only one party, while the other party does not provide counter achievements. Grants in this Civil Code are part of contract law and are classified as agreements to give or deliver something. In the Civil Code as well as in the Compilation of Islamic Law, grants may not be withdrawn unilaterally without the consent of the recipient of the grant, even if the grant is between two people who are brothers or husband and wife. Article 1676 of the Civil Code states that everyone may give and receive grants except those who are declared unable by law to do so. According to Subekti, an agreement is an event where one person promises to another person or where the two people promise each other to carry out something in the form of an agreement in the form of a series of words spoken or written. Grants are classified in a free agreement (Dutch language *OM niet*) in the word for free it is shown that there is prestige from one party only, while the other party does not have to give the counter prestige in return, then such an agreement is called a unilateral agreement. There is no possibility to withdraw it means that the grant is an agreement and according to Article 1338 of the Civil Code which reads all agreements made legally apply as law for those who make them.

In the case of this grant, the State together with the regional and central governments are grantees who give up state-owned land to be used and owned as a proper place to live for the people.

However, the decision regarding which concept will be taken by the Government as a step to follow up on the demand for ownership of assets for this agrarian reform, returning to the government's policies and preferences in implementing this agrarian reform, considering the current economic situation is unstable, the choice of rent and purchase can be used as one of the choices. Option. However, if the Government is sincere in fighting for the prosperity and welfare of the community by putting aside the economic interests of the nation, the grant option is the right choice to provide a solution to land rights ownership for the community in agrarian reform.

Based on the results of research in the field and observations on the legal regulations that have been made, the implementation of this agrarian reform becomes very complicated if it is without direction as it is today. If the government wants the city of North Jakarta to be a role model for implementing agrarian reform in urban areas for Indonesia and the world, then the government must first improve the hierarchy of regulations regarding this agrarian reform.

make laws that become the legal basis for implementing regulations for implementing agrarian reform, even though the implementing regulations have been made, namely PER PRES 86/2018 and TAP MPR RI Number IX/2001. It is better to immediately improve the systematics of the regulations so that their implementation is more focused and the results are more optimal. Due to the development of civilization today, the land is one of the important components for the sustainability of the economy of the country and society. Community welfare can be seen in how the state regulates and manages the land in it. The policies of the Ministry of ATR/BPN and the Central and Regional

²⁶ Ahmad Rofiq, *Islamic Law in Indonesia*, (Jakarta: PT Raja Grafindo Persada, 1997), 466.

²⁷ Subekti, *Covenant Law*, (Jakarta: Intermasa, Jakarta, 1991), 1.



Governments in Indonesia must be in line with the basic rules of agrarian reform that will soon be made.

CONCLUSION

That the implementation of agrarian reform related to spatial planning and environmentally sound development has been implemented and successfully implemented, especially in the North Jakarta City area which is currently running less than optimally due to the absence of clear regulations regarding the legal basis of the law, derivative regulations from the Presidential Regulation that has been promulgated. Spatial planning for 3 clusters of villages in North Jakarta and environmental management for 7 villages in North Jakarta work solely by relying on local government policies, such as the governor's policy. So that it is very weak in terms of legitimacy, the institution that is specifically authorized for agrarian reform is still not clear, so it is carried out by relying on cooperation between the central government, regional governments, and the Ministry of ATR/BPN. So far, what has been implemented is not agrarian reform but land reform which is stated in the UUPA. The existence of the UUPA, TAP MPR IX/2001 and PERPRES 86/2018 is not legitimate that can provide a holistic and comprehensive basis for the implementation of agrarian reform. This is because the UUPA is not a law that specifically regulates agrarian reform, but the UUPA is the basic rule for the administration of national land and agrarian affairs. The PERPRES 86/2018 issued shows that there is a legal vacuum regarding agrarian reform in Indonesia because the MPR Decree alone cannot be the basis for the issuance of a Presidential Regulation, derivative regulations should appear after the main regulations that deal with it, such as the Law on agrarian reform that Turns out there hasn't been one so far. In addition, the PERPRES 86/2018 after being promulgated has not been followed up with an implementing regulation in the form of a ministerial regulation, once again this shows that there is a very clear legal vacuum in terms of regulating agrarian reform. So far, the implementation of agrarian reform has not accommodated non-agricultural land objects located in urban areas, agrarian reform still focuses on non-agricultural land in rural areas.

Whereas the role model for the implementation of agrarian reform in North Jakarta City has not yet had clear legitimacy. Legally, agrarian reform has not been included in the editorial in the UUPA, where the UUPA is a guideline for national land law in Indonesia. Article 7, Article 10, and Article 17 of the UUPA, it is only limited to land reform. Thus, the UUPA as national land law or national guidelines for agrarian law in Indonesia has not been able to provide answers to the agrarian problems that have occurred to date in Indonesia, namely regarding agrarian reform and its implementation. Agrarian reform aims to be able to provide assets and access to reform can be handed over to the community in 2 ways:

a. Rent and buy with strata title

Article 10 PP 27/2021 states in Paragraph (1) letters a and b, that a cooperative business is a business that is directly related to the interests of members and improves business and community welfare. Where the Cooperative acts as an institution that pays repayments to the government and receives instalment payments for land prices from the community. Thus, as long as the cooperative has not fully settled the payment to the Government for the land and buildings intended for the relocation of the community, the Government will not transfer any rights to the ownership and management of the land and buildings. The transfer of rights to land and buildings will be carried out by the Government to the Cooperatives, after which the cooperatives will divide the ownership of land and build for the community based on strata title rights or certificates of ownership rights to flat units (SHMSRS). It is stated in Article 1 number 1 of Law Number 20 of 2011 concerning Flats that, Flats are multi-story buildings and are built in an environment that is divided into structured parts according to their function, can be horizontally or vertically, owned and used collectively. Separately, as a residence equipped with shared facilities, shared infrastructure, and shared land. In number 12 it is also explained that the certificate of ownership of the condominium building (SKBG Sarusun) is proof of ownership of the condominium unit on a state or regional property in the form of land or waqf land by way of lease. It is this rental procedure that needs to be made special rules that will become the connecting thread for the enactment of the lease and purchase of lands that

are objects of agrarian reform in Indonesia. Using cooperatives as a non-governmental organization that is obliged to pay off the rental price to the Government. As long as the cooperative has not fully paid the price agreed by the government and the community, the government has not been able to transfer ownership of the land rights to the community. If it has been paid in full, then the Government is obliged to transfer the ownership and management of the land and buildings to the cooperative, so that the cooperative which is obliged to carry out the splitting of property rights divides the property rights to the community.

b. Grant

Grants are regulated in the Civil Code, Article 1666 which states that a grant is a form of agreement in which the grantor submits an object to the grantee, while the grantor is still alive, free of charge and cannot be withdrawn. Only grants made by the grantor while still alive are recognized by the law. A grant in the Civil Code is a free type of agreement where the fulfilment of achievements is only from one party, without the need for counter achievements. The type of grant that can be withdrawn only occurs if the grant is given by parents to their children as stated in Article 212 of the Compilation of Islamic Law.

It is necessary to immediately enact a law and its derivative regulations that specifically regulate the implementation of agrarian reform; In addition, special organizations or institutions will soon be formed that have holistic and special authority in implementing reforms. This institution is at least at the level of echelon 1 in the Ministry in charge of Agrarian/Land and preferably at the level of the Ministry or Non-Departmental Government Institution. Regarding the implementation of agrarian reform role models in cities such as North Jakarta, it is necessary to reformulate its policies in implementation in North Jakarta in particular and DKI Jakarta in general so that the agrarian reform conception can be achieved. The weakness is that in terms of asset management and providing access to reform, it must be conceptually fulfilled in the policies implemented. This policy should ideally also have an adequate legal umbrella so that it can become legitimate in its implementation. If this role model can be perfected, then this role model can become a model in other big cities in Indonesia, maybe even in other countries, considering the concept of implementing agrarian reform in national capitals or metropolitan cities around the world, the Republic of Indonesia was the first to implement it.

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