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Effectiveness and Impediments in Land Acquisition for Disputed Assets: A Case Study of PT Pelindo Regional 4 Makassar

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ABSTRACT

This study aims to analyze the effectiveness of implementing land acquisition for public interest involving disputed assets at PT Pelindo Regional 4 Makassar, as well as the factors influencing said effectiveness. Employing a quantitative descriptive approach, this research utilized both normative and empirical legal methodologies. The study was conducted in Makassar City. Data collection techniques included questionnaires, documentation, and literature study. The collected data were analyzed using quantitative data analysis techniques and presented through frequency distribution tables. Research findings indicate that the land acquisition for public interest involving disputed assets at PT Pelindo Regional 4 Makassar has been carried out in accordance with applicable laws and regulations. However, its implementation has not achieved full effectiveness, particularly concerning the following activities: the inventory and identification of land tenure, ownership, use, and utilization; compensation assessment; compensation disbursement; and land relinquishment. Furthermore, four factors were found to influence the effectiveness of implementing this land acquisition: legal substance, legal culture, facilities and infrastructure, and community legal awareness.

Keywords: Disputed Assets; Land Acquisition; Public Interest.

INTRODUCTION

Land constitutes a fundamental human necessity. Humans live and conduct activities on land, thereby establishing a constant relationship with it; indeed, nearly all human activities, directly or indirectly, necessitate land (Marta, 2013). Land plays a crucial role in the dynamics of development, as stipulated in Article 33 section (3) of the 1945 Constitution, which mandates that “*the earth, water, and natural resources contained therein are controlled by the State and utilized for the greatest prosperity of the people.*”

In the current era of development, a notable issue arises wherein land becomes a source of conflict. This occurs when the government requires land owned by residents for development purposes. A conflict emerges because, on one hand, the government needs the land for development, while on the other, the local community requires it as a source of livelihood. Consequently, the problems surrounding land acquisition and the revocation of land rights have become quite complex issues in contemporary legal scholarship (Rongiyati, 2012).

Land, along with the earth, water, and the airspace above it, forms part of the nation's wealth, existing within the public domain collectively owned by the Indonesian people as national wealth, and intertwined in an perpetual relationship with the Indonesian nation. This is articulated in Article 1 of Law Number 5 of 1960, which explains that:

- (1) The entire territory of Indonesia constitutes a unified land and water area belonging to the entire Indonesian people, united as the Indonesian nation.

- (2) All earth, water, and airspace, including the natural resources contained therein within the territory of the Republic of Indonesia, as a gift from God Almighty, are the earth, water, and airspace of the Indonesian nation and constitute national wealth.
- (3) The relationship between the Indonesian nation and the earth, water, and airspace mentioned in section (2) of this article is perpetual.
- (4) The term 'earth,' besides the surface, also includes the subterranean body beneath it and that which lies under water.
- (5) The term 'water' includes both inland waters and the territorial sea of Indonesia.
- (6) The term 'airspace' refers to the space above the earth and water mentioned in sections (4) and (5) of this article.

Control over land necessitates the prior existence of land rights (Silviana, 2017). Similarly, the state must possess a legal basis for controlling and utilizing land, granting it the authority to regulate land allocation for the purpose of public prosperity (Erwiningsih, 2009). As stated by Saleh (1982), *"land is merely the earth's surface, thus constituting a part of the earth."* This definition tends to emphasize land as a component of nature, signifying that land as a natural environment is part of the earth (Fazriyah, 2015). Furthermore, Article 4 section (1) of Law Number 5 of 1960 stipulates regarding land:

"Based on the State's right of control... various types of rights over the earth's surface, referred to as land, are determined, which can be granted to and owned by individuals, either alone or jointly with others, as well as by legal entities."

According to Sunindhia and Widiyanti (1988):

"Land is qualified as the earth's surface, whereas the definition of earth also includes the land and the subterranean body beneath it, as well as that which lies under water."

Therefore, the affirmation of land ownership also serves as an effort to prevent disputes or conflicts among community members. When disputes or conflicts are unavoidable, dispute resolution mechanisms are required. According to Rohmad (2008) cited in Fuad (2017), several reasons necessitate mediation concerning land dispute issues, including:

1. dissatisfaction with the courts' role in resolving land disputes, which is perceived as overly formal, time-consuming, expensive, and unjust;
2. the need for more flexible and responsive land dispute resolution mechanisms tailored to the needs of the disputing parties;
3. encouraging community participation in resolving land disputes;
4. expanding access to justice for the community.

An example concerning land issues in Makassar City can be observed at PT Pelabuhan Indonesia (Pelindo) Regional 4 Makassar, which is fully controlled by the Government, specifically as a State-Owned Enterprise. PT Pelindo Regional 4 Makassar envisions becoming an independent, financially sound, international-standard port services company that ensures the continuity of national transportation. To realize this vision, PT Pelindo Regional 4 Makassar must expand the Makassar New Port (MNP) area from 300 hectares to 1,400 hectares. As stated by the President Director of PT Pelindo Regional 4 Makassar, Doso Agung, the current development permit for MNP covers 300 hectares. Therefore, to extend the development to 1,400 hectares, PT Pelindo Regional 4 Makassar proposed a revision of the spatial plan to the South Sulawesi Provincial Government ([Luciana, 2018](#)).

Revising the spatial plan for the expansion of the MNP port area inevitably impacts land acquisition for public interest. The interpretation of land acquisition for public interest itself often leads to problems. The government views land acquisition as essential for its social function, facilitating public convenience and prosperity. However, citizens affected by land acquisition often do not accept it as development for the public interest, perceiving it as potentially detrimental to local residents ([Hamdi, 2014](#)).

Development for public interest is undertaken and subsequently owned by the government, not for profit-seeking purposes ([Sahnan et al., 2015](#)). Public interest is the objective to be fulfilled and simultaneously the rationale for granting the state the authority to acquire land owned by individuals or customary land rights held by indigenous communities. Consequently, the definition of public interest is critically important in land acquisition activities for public purposes ([Sufriadi, 2013](#)).

Issues surrounding the implementation of land acquisition for public interest persistently arise and remain relevant over time, driven by population growth and developmental progress. Land disputes have recently become quite prevalent, frequently reported in various media, both print and electronic. The disputing parties are diverse, including individuals, groups, private entities, and government bodies, including PT Pelindo Regional 4 Makassar.

Problems related to land acquisition include an instance where PT Pelindo Regional 4 Makassar reported a case of alleged document forgery concerning a land acquisition project valued at IDR 104,000,000,000 to the Directorate of General Crimes Investigation of the South Sulawesi Regional Police on July 27, 2012. This case originated during the land acquisition project undertaken by PT Pelindo Regional 4 Makassar. A suspect submitted documents suggesting entitlement to compensation for the land. These documents included a certificate of registration of Indonesian-owned land, land history subject to IPEDA tax, and a land situation map for IPEDA

tax. However, upon thorough examination, PT Pelindo Regional 4 Makassar identified discrepancies between two documents containing differing information, leading to the suspicion of forgery, specifically concerning the certificate of land history subject to IPEDA tax. Several documents submitted by the suspect were initially intended to serve as a basis for claiming inheritance rights to challenge PT Pelindo Regional 4 Makassar's acquisition of a 60,669 m² site. Due to this incident, PT Pelindo Regional 4 Makassar felt aggrieved because the location possesses ownership certificates under a Right of Management (HPL) granted to PT Pelindo Regional 4 Makassar as the land manager, specifically HPL Certificate No. 1/Ujung Tanah issued in 1993 (Fatir, 2016).

PT Pelindo Regional 4 Makassar expects the South Sulawesi Regional Police to promptly reopen the case of document forgery in the PT Pelindo Regional 4 Makassar land acquisition involving the suspect, as the suspect has already been designated based on the alleged crime of using forged documents. This aligns with Article 263 section (2) of Law Number 1 of 1946, which stipulates:

"Whoever produces a forged document or falsifies a document that can give rise to a right, an obligation, or a debt release, or which is intended as evidence of something, with the intent to use or have someone else use said document as if its content were true and not falsified, shall be punished, if such use may cause loss, for document forgery, with a maximum imprisonment of six years."

Based on the provision above, this case potentially involves state losses amounting to billions of rupiah. Therefore, a scientific study regarding the land acquisition issues faced by PT Pelindo Regional 4 Makassar is necessary so that land acquisition for public interest can be addressed promptly and does not escalate into a problem causing public unrest in Makassar City.

The implementation method for acquiring land for public interest, particularly land subject to dispute at PT Pelindo Regional 4 Makassar, involves land consolidation. This is defined in Article 1 point 1 of Ministerial Regulation Number 12 of 2019, which explains that:

"Land Consolidation is a policy of restructuring land tenure, ownership, use, and utilization according to spatial plans, as well as efforts to provide land for public interest in order to improve environmental quality and maintain natural resources, involving active community participation."

Based on this provision, land consolidation serves as a crucial instrument for achieving integrated and participatory spatial planning and regional development (Idham, 2018).

Based on the aforementioned description, the objectives of this research are to analyze the effectiveness of the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar, and the factors influencing it.

METHOD

This study employs a combination of normative and empirical legal research methodologies. Normative legal research encompasses the examination of legal principles, legal systematics, legal history, and comparative law (Qamar & Rezah, 2020). Conversely, empirical legal research observes law within its social context (Sampara & Husen, 2016), specifically focusing on the implementation of land acquisition involving disputed assets (Husen et al., 2020). This research was conducted in Makassar City, specifically at PT Pelindo Regional 4 Makassar. The study population comprises PT Pelindo Regional 4 Makassar, the National Land Agency of Makassar City, Police and Judicial Institutions, Non-Governmental Organizations (NGOs), and community members. The sample size consisted of 50 respondents, selected through proportional random sampling, distributed as follows:

1. 10 Employees of PT Pelindo Regional 4 Makassar;
2. 10 Employees of the National Land Agency of Makassar City;
3. 5 Police officers;
4. 5 Judges;
5. 10 NGO members; and
6. 10 Community members classified as affected parties (victims).

The types and sources of data utilized in this research are (Irwansyah, 2020):

1. Primary Data: Data obtained directly from respondents selected based on the defined population and sample;
2. Secondary Data: Data acquired through a review of legal literature, including laws and regulations, references, legal scientific journals, legal encyclopedias, and official texts or publications. The primary legal materials used as secondary data in this study include Law Number 2 of 2012 and Makassar Mayor Circular Number 620/2505/BPD/XII/2016.

To acquire the necessary data for this research, the following data collection techniques were employed:

1. Questionnaires/Surveys: Conducting direct interviews wherein questions related to the research problem were posed to respondents for their answers;
2. Documentation: Gathering relevant documents through official requests;
3. Literature Study: Identifying and analyzing legal literature materials pertinent to the research problem.

The collected data were subsequently quantified using a quantitative descriptive analysis model and elaborated through frequency distribution tables.

RESULTS AND DISCUSSION

A. Effectiveness of Land Acquisition Implementation for Disputed Assets at PT Pelindo Regional 4 Makassar

Pursuant to Article 13 of Law Number 2 of 2012, land acquisition for public interest is conducted through the following stages:

- a. planning;
- b. preparation;
- c. implementation; and
- d. handover of results.

A plan for the consignment of compensation was established for the land acquisition concerning the MNP access road, based on Makassar Mayor Circular Number 620/2505/BPD/XII/2016. According to measurement results from the National Land Agency of Makassar City, the required land area for the MNP access road is approximately 37,722 m². Of this, 9,215 m² has been acquired, while approximately 28,507 m² remains unacquired. Within the unacquired area, two plots of land, totaling 18,590 m², are designated for consignment through the Makassar District Court. The ownership details are as follows:

1. Land Plot I, registered under Ahmad Dg. Mangawing, covering 6,169 m², based on Cultivation Permit Letter No: 73/IM/1966 dated April 4, 1966;
2. Land Plot II, registered under Rusdin and A. Jayanti Ramli, covering 12,421 m², based on Tax Assessment Notification Letter Number 73.71.090.015.002-0293.0.

The chronology and legal basis for the consignment of compensation for these two land acquisition issues processed through the Makassar District Court are as follows:

1. Land Plot I under Ahmad Dg. Mangawing (6,169 m²) is currently under dispute at the Makassar District Court, involving a third-party opposition lawsuit against Decision Number 13/Pdt.G/2010/PN.Mks jo. Number 190/Pdt/2011/PT.Mks fis. Number 378 K/Pdt/2010 jis. Number 489 PK/Pdt/2014;
2. Land Plot II under Rusdin and A. Jayanti Ramli (12,421 m²) is under dispute at the Makassar District Court, registered under Case Number 13/Pdt.G/2017/PN.Mks;
3. An opinion from the South Sulawesi High Prosecutor's Office concluded that:
 - a. the existence of ownership disputes over the land designated for the MNP access road does not constitute an impediment for PT Pelindo Regional 4 Makassar to proceed with the MNP development;

- b. for land plots still under dispute in court, the procuring agency should deposit the compensation through consignment at the local court;
- c. PT Pelindo Regional 4 Makassar, as a State-Owned Enterprise assigned the special task of developing the MNP, a national strategic project, receives priority in the granting of land rights;
- d. the MNP land acquisition must be executed based on the principle of prudence, utilizing Public Appraisal Services licensed by the Minister of Finance.

Consignment of compensation is applicable when the party entitled to receive compensation is involved in a court case, faces disputed ownership claims, has the property subjected to seizure by authorized officials, or has pledged it as collateral to a bank (Hariyadi, 2020). Upon the implementation of compensation payment via consignment by the Makassar District Court, the ownership or land rights of the entitled party are extinguished, the corresponding evidence of rights is declared invalid, and the land becomes directly controlled by the state.

In relation to the effectiveness of implementing land acquisition for public interest concerning disputed assets at PT Pelindo Regional 4 Makassar, an assessment can be made by examining the Legal Opinion regarding the Land Acquisition for the MNP Project by PT Pelindo Regional 4 Makassar.

B. Factors Influencing the Implementation of Land Acquisition for Disputed Assets at PT Pelindo Regional 4 Makassar

Several factors influence the implementation of land acquisition involving disputed assets at PT Pelindo Regional 4 Makassar, including legal substance, legal culture, facilities and infrastructure, and community legal awareness. These factors are elaborated below.

1. Legal Substance

Legal substance refers to the fundamental legal content used to implement laws and regulations, reviewed from juridical, sociological, and psychological perspectives in law enforcement (Akbar & Musakkir, 2022). Legal substance, including the resources of laws and regulations, significantly determines the effectiveness of implementing land acquisition for disputed assets at PT Pelindo Regional 4 Makassar. The influence of legal substance is detailed in the following table.

Table 1. Influence of Legal Substance on the Implementation of Land Acquisition for Disputed Assets at PT Pelindo Regional 4 Makassar

Indicator	Frequency	Percentage (%)
Influential	30	60.00
Less Influential	15	30.00
Not Influential	5	10.00
Total	50	100.00

Source: Data Processed from Questionnaires, 2019

The data in Table 1 indicate that 30 respondents (60%) stated it was influential, 15 respondents (30%) stated it was less influential, and 5 respondents (10%) stated it was not influential. This suggests that legal substance significantly influences the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar.

2. Legal Culture

Legal culture encompasses the customs, opinions, ways of thinking, and modes of action of both law enforcers and community members (Bunyamin, 2021). Legal culture is crucial for supporting the legal system. Cultural variations can lead to specific perceptions regarding the authority of law enforcement. Therefore, law enforcement patterns should ideally be adapted to local conceptions to reinforce the authority of law enforcers. The influence of legal culture is presented in the table below.

Table 2. Influence of Legal Culture on the Implementation of Land Acquisition for Disputed Assets at PT Pelindo Regional 4 Makassar

Indicator	Frequency	Percentage (%)
Influential	23	46.00
Less Influential	22	44.00
Not Influential	5	10.00
Total	50	100.00

Source: Data Processed from Questionnaires, 2019

The data in the table above show that 23 respondents (46%) considered it influential, 22 respondents (44%) considered it less influential, and 5 respondents (10%) considered it not influential. The trend suggests that legal culture influences the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar.

3. Facilities and Infrastructure

Facilities and infrastructure are supporting factors in the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar. The availability of adequate facilities and infrastructure is expected to streamline the mechanism of the land acquisition process for public interest effectively (Purnawati & Ilham, 2022). Implementing land acquisition for disputed assets at PT Pelindo Regional 4 Makassar without adequate facilities and infrastructure will likely not be effective. The influence of facilities and infrastructure is shown below.

Table 3. Influence of Facilities and Infrastructure on the Implementation of Land Acquisition for Disputed Assets at PT Pelindo Regional 4 Makassar

Indicator	Frequency	Percentage (%)
Influential	32	64.00
Less Influential	14	28.00
Not Influential	4	8.00
Total	50	100.00

Source: Data Processed from Questionnaires, 2019

The data in the table above indicate that 32 respondents (64%) found it influential, 14 respondents (28%) found it less influential, and 4 respondents (8%) found it not influential. This implies that facilities and infrastructure significantly influence the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar.

4. Community Legal Awareness Factor

The factor of community legal awareness encompasses public support and awareness in realizing good governance (Manangin et al., 2022). In the context of this research, community support and awareness refer specifically to the participation of the public, particularly parties who refuse compensation, in understanding and being willing to accept Court decisions for the public interest. The influence of community legal awareness is detailed below.

Table 4. Influence of Community Legal Awareness on the Implementation of Land Acquisition for Disputed Assets at PT Pelindo Regional 4 Makassar

Indicator	Frequency	Percentage (%)
Influential	24	48.00
Less Influential	21	42.00
Not Influential	5	10.00
Total	50	100.00

Source: Data Processed from Questionnaires, 2019

The data in the table above show that 24 respondents (48%) considered it influential, 21 respondents (42%) considered it less influential, and 5 respondents (10%) considered it not influential. The data trend indicates that community legal awareness influences the implementation of land acquisition for disputed assets at PT Pelindo Regional 4 Makassar.

CONCLUSIONS AND SUGGESTIONS

The analysis of land acquisition implementation for disputed assets at PT Pelindo Regional 4 Makassar reveals that while general procedures adhere to the applicable legal framework, including the utilization of court-administered consignment for contested land parcels as observed in the MNP access road project, the overall effectiveness of implementation faces significant impediments. Specifically, deficiencies were identified in several crucial activities: the inventory and identification process concerning land tenure, ownership, use, and utilization; the valuation of compensation; the mechanism for disbursing compensation; and the land relinquishment process. Weaknesses in these stages contribute to the suboptimal achievement of land acquisition objectives in an efficient and conclusive manner.

This less-than-optimal effectiveness is influenced by a complex interplay of various factors. This study identified four key influencing elements: (1) the legal substance underpinning the implementation, (2) the prevailing legal culture among stakeholders and the wider community, (3) the availability and adequacy of facilities and infrastructure supporting the acquisition process, and (4) the level of legal awareness among the community members affected by the land acquisition. Based on these findings, it is recommended that efforts to enhance effectiveness be strategically focused on strengthening the identified weak implementation stages. Improvements in the activities of inventory/identification, compensation valuation, compensation disbursement, and land relinquishment are priorities. It is anticipated that such enhancements will not only improve procedural efficiency but also foster better understanding and acceptance among entitled or aggrieved parties regarding legal

remedies like consignment, ultimately facilitating the timely and legally compliant completion of land acquisition for public interest, particularly for strategic projects such as the MNP access road.

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