

The Responsibility Of Land Office On Landfarm Functional Shift To Housing (A Study In Blitar City Land Office)

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ABSTRACT

Regarding the transfer of agricultural land to housing, the reduction in the area of agricultural land in Blitar City is due to land conversion functions such as the construction of housing and other public facilities that are not in accordance with article 3 paragraph (1) letter g PERDA of the Blitar City Spatial Plan. In fact, regulations with reality that occur in the field are not in accordance with applicable regulations. The facts that occur on the ground are agricultural land being converted into housing that causing agricultural land to decrease. Based on this, the author made this study with the aim of analyzing the implementation of policies and accountability of the Blitar City Land Office for the conversion of agricultural land for housing in Blitar City. The research method used by the author is juridical empirical with a legal sociology approach. From the results of this study, it can be concluded that there is a lack of firmness in law enforcement towards the conversion of agricultural land which is still quite widely found in buildings in the form of housing and land converted to other non-agricultural land and not licensed. The results of the study show that there is a need for coordination between the City Government as a policy maker and agencies related to the conversion of agricultural land for housing, so that integrated supervision can be carried out so that changes in land use can be known earlier so that agricultural land does not decrease every year.

Keywords: *Blitar City Land Office; Land Conversion; Agricultural Land.*

INTRODUCTION

The growth of Indonesian citizen increased from year to year. In 2017, the amount of Indonesian citizen reaching 261890.90 people while in 2018 the amount of Indonesian citizens are 265015.30 thousand people. According to this data, the number of Indonesian citizen increase in every year and its impact on the increased of the

people needs on a place to stay (housing). With the increase of housing demand, the problem arise on the availability of a land, particularly in the city area for example the city of Blitar. In several area of Blitar city there is farmland which then developed into housing to satisfy the demand of a housing needs of the community, for this matter it shows the split of a farmland into housing area, in connection with the spatial plan of Blitar city.

Concerning the spatial plan of Blitar, there is local regulation of Blitar city Number 12 year 2011 on the spatial plan of Blitar area of 2011-2030 hence forth called “PERDA RTRW” of Blitar. Article 2 of PERDA RTRW stating the purpose on the spatial plan of blitar is to form blitar into national tourism city which supported from the farm sector, trading and services.¹The article can be understand that Blitar city as a heritage town which supported from a farm, trading and services which only has an area about 32,58 Km²², with an area of only 32,58 Km² and the demand of housing increased which then the problem arise is the farmland in Blitar decreased in every year because it has to fulfill the demand of people on a place to stay. This matter is not in harmony with the purpose of spatial plan which previously wanted to be reached by the city of Blitar. the city of Blitar has a purpose on spatial as a superior on the sustainable farm sector as mandated on the act number 41 year 2009 on the protection of sustainable food farm land. Concerning the function split regulated on the chapter three which listed on article 44 to article 53.

Rodiyah as the head of food security and farm Blitar city stated that “currently the farm land in Blitar has a total amount of 1.087 hectares, the farmland area is decrease around 10 hectare compared to 2017.³ The decrease area of farm land in Blitar because the split function of a land such as construction in housing and other public facilities. The decrease of farm land in Blitar city which impact on the availability of the land for the farmer.

According to this fact, the existence of farm land functional shift to housing decrease the land farm in every year. This matter is not suitable with the provision in paragraph 3 article 1 letter g of local regulation (PERDA RTRW) of Blitar city, which stating that one of the spatial planning policy is “ the development on urban agricultural activities”. The article is the basis of Blitar city policy on spatial planning to develop agricultural activities. However the reality is different, between the applicable regulation and reality on the implementation was not corresponded. The wide of land farm decrease which turning to housing. So the spatial plan policies of Blitar city on the developing on land farm as stated on article 3 paragraph 1 letter has not been realized properly. The facts in the field is the land farm have split function to housing causes the decrease of land farm.

Concerning the duty of land office as listed under article 2 of agrarian ministry regulation and spatial plan of land head office of republic Indonesia number 38 year 2016 on organization and working procedure of and land office (known as PERMEN ATR/KEPALA BPN number 38 year 2016). The writer concluded that the duty and function of land office is to implement half of the duty and function of national land institution of east java province. Furthermore on the article 3 of PERMEN ATR/KEPALA BPN number 38 year 2016 regulated about the function of regional office to organize the function of:

- a. Coordination, development, and implementation of drafting the plan, program and funding of regional office and land office in the area ;

¹ Article 2 regional regulation of blitar city Number 12 year 2011 concerning the spatial plan of blitar area of 2011-2030 (regional sheet of blitar city year 2012 number 1) stated that “the spatialplan purpose is to create blitar as a tourism city which supported by the \ farm, trade and service that save, comfort and prodctive and sustainability”

² <http://bappeda.jatimprov.go.id/bappeda/wp-content/uploads/potensi-kab-kota-2013/kota-blitar-2013.pdf> , accessed at 3 April 2018.

³ Interview result with Rodiyah, the head of food security and farm of blitar city, at 26 march 2018.

- b. Coordination, development and survey implementation, measurement and mapping and establishment of rights of a land, land registration and community development, land arrangement, land procurement, land control and dispute handling and cases;
- c. Settlement coordination follows up on findings the supervision result.
- d. Monitoring, evaluation and reporting the implementation of land activity in the regional office and land office.
- e. Providing administration support to the whole organization unit of regional office and coordination duty and administration coaching to the land office.

According to article 3, the writer concluded that the duty and function of land office which suitable with this research is the duty and function on the rights of a land determination. If it linked with the cases that happened, the land office of Blitar city have the role on the determination of rights of land that will be used for housing. Further, if it linked with the strategic plan of agrarian ministry and spatial plan of national land institution of republic of Indonesia year 2015 to 2019, the strategic plan of 2015 to 2019 is to “ increase the community welfare through fair and sustainable agrarian utilization, the realization of safety, comfort and productive sustainable space, the decrease of spatial and land cases (dispute, conflict and case)”⁴, then the realization of strategic plan is not well yet because there is a spatial problem (particularly Blitar city) which is the land split function to housing.

Land in Blitar city have mapped its function on the arrangement of spatial plan of Blitar city. The mapping on land in Blitar city is the policy from land office of Blitar city in coordination with the regional government of Blitar city. The government authorized on the regulation making, the land office of Blitar city put the policy on the publication of decision letter concerning the determination of rights of a land. when the problem arise, it causes a question for how far the responsibility of a land office concerning the split function of a land to housing because there is a farm land which turn to a housing. According to this problem, the writer did research concerning the responsibility of a land farm functional shift to housing (a study in Blitar city land office). The research method on this research is juridical emphyrical with sociology of law approach.

According to the law problem which describe above it may be formulated the problems, which are city concerning the which turn to a housing. according ity put the policy on the on with the regional government of Blitar

- 1) How is the policy implementation of Blitar city land office on the splict function of a farmland to housing?
- 2) How is the responsibility of Blitar city land office on the split function of a farmland to housing?

METHOD

This study is an empirical juridical study. Approach using in this study are statute approach and sociological approach. Legal material in this study collecting using librarian study and interview technique. Data collected then analyzed qualitatively.

DISCUSSION

The Implementation of Blitar city land office policy on the split Function of a Land Farm to Housing in Blitar city.

⁴ <http://www.bpn.go.id/Portals/0/perencanaan/dokumenpublik/Renstra%20Kementerian%20ATR.BPN%202015%20s.d%202019.pdf>. [accessed at 1 June 2018].

Concerning the split function of a land farm to housing in Blitar city, the land office play a role as an approval provider in technique consideration on the location permit application. This is because the public work service and spatial plan play a role as a permit implementation that given by the land office of Blitar city, whether on the supervision or sanction for the violator.⁵ What it means by violation in this research is la land farm which split it function to housing according to zone in map which owned by the land office in Blitar city is green zone, where this green zone is a prohibited zone for housing. The sanction is in form of administration sanction which stated on the article 46 regional regulation of Blitar city number 10 year 2017 concerning the detail of spatial plan of Blitar city which is written warning, a temporary termination on activities, a temporary termination on public services, a recovery of space function; a location closure, revocation on permission, a cancellation on permission, a building demolition, and/or administrative fine. The government action on this violation is by given a sanctions in form of written warning because the Blitar community is a community who tend to choose live a long well so the Blitar government trying to avoid the sustainable conflict.⁶

According to the duty of Blitar land office and general licensing agency and spatial plan in concern of land farm split function, both of these agencies have a team to make a technical consideration on the farmland which applied for it permit to be split by the applicant, the technical consideration which done by the Blitar land office and spatial plan and general license agency is by considering whether the land which applied for it split function is suitable with the spatial plan of Blitar city. If it is not disturbing the spatial plan of the land may be function split and if the land disturbing the spatial plan then the split function application will not be published⁷, as listed on the article 37 paragraph 7 act number 26 year 2007 on the spatial plan stated that :⁸

“Every government official who have the authorization on publishing the permit of spatial use is prohibited to publishing a permission which not suitable with the spatial plan.”

By virtue of the data on this research, the application on permit of split function of a land from the last three years from 2016 to 2018 is in year of 2016 was applied permits on accumulation 287.558 m² and accepted about 215.097 m², at 2017 was applied about 300.785 m², and accepted about 280.379 m²,, and the last at 2018 was applied about 350.668 m², and accepted about 300.055m².⁹ according to the interview with Mr. Budi Kuncoro as the head of conflict and cases dispute section that in concern with accepted or declined on permit of spatial plan in Blitar city, if it does not disturbing the spatial plan mostly the permission will be granted and supported by the development and supervision of spatial utilization which done by the land office of Blitar city and spatial plan and general services agency which also supported by the suitable sanctions as mentions on the regional regulation of Blitar city number 10 year 2017 on the detail of spatial plan of the urban area and zone regulation of Blitar city.¹⁰

Whilst Mr. Budi Santoso as the spatial plan section in blitar city explained that the land office and spatial plan and general services agency are worked together to coach the community

⁵ Interview result with Annas, a staff of spatial plan, general services agency of Blitar city at 23 December 2018”.

⁶ Interview result with Annas, a staff of spatial plan, general services agency of Blitar city at 23 December 2018”.

⁷ Interview result with Yamto, head of general services of Blitar land office at 1 January 2019”

⁸ Law number 26 year 2007 on the spatial plan, gazette of republic of Indonesia year 2007 number 68, gazette addition of republic of Indonesia number 4725.

⁹ Interview result with Bambang Hermanto, land section, general services and spatial plan of Blitar city at 25 December 2018.

¹⁰ The interview result with Budi Kuncoro, head of dispute section, conflict and cases, land office of blitar city at 25 December 2018

on the split function of a land farm to housing in Blitar area. The development is done by espionage, direct socialization and through the printing media or electronic.¹¹

The coaching activity to the rural community is done by the initiative of the land office of Blitar city and general services agency and spatial plan on their own because the community demanded. The espionage is done in form of a coaching to the community of the area, this activity contain the information around the split function of a land farm and the permit of spatial utilization. Even if it is not have routine agenda, the espionage purpose so that the people who following the espionage sharing the information to the other community who was not attended the espionage. The espionage also done through radio media, printing media and billboard installation in various places as explained.

Further, the discussion on coaching and supervision that implemented by the land office of Blitar city and general services and spatial plan agency in oversee the split function of a land farm and the permit implementation of spatial utilization. The supervision is done with:¹²

- a) Direct supervision
- b) Google earth, the application that make the land office of Blitar city easier to detect the area of the land farm in split function to the non-land farm including a housing that not license yet.
- c) The information from a village government;
- d) The information from community

Furthermore, it also explained that the supervision activity on the spatial is one of the general services and spatial plan agency effort to control the split function of a land farm by the community through an update Google earth, Google earth shows where the construction in process in the area which disturbing the spatial plan area. Through the Google earth, the land office of Blitar city and general services and spatial plan agency are able to detect the whole area including the land farm in split function to housing with no permit, so for this matter with the cooperation with the land office of Blitar city and general services and spatial plan agency by sending the person on duty to survey in order to analyze the data from the field on the building which disturbing the spatial plan of Blitar city, further the general services agency and spatial plan do the report to the land office of Blitar city in order to following up the event that happen in the field. The next step done by the land office of Blitar city is to give an instruction to the general services and spatial plan agency to send his team back to give a warning as well as the coaching activity to the community. The target of the spatial supervision above is the house that is still in construction process particularly when the house foundation installed.¹³

The coaching is about the split function of a land and the permit procedures of the spatial utilization. The community tends to frivolous by build their farmland into building without understanding the split function of a land farm and spatial plan also the permit on spatial utilization. The community should understand the spatial utilization so it will be effective and not raise a new problem in the future.

Beside the spatial supervision activity, the activity is done by the land office of Blitar city and general services and spatial plan agency to monitoring and evaluating the permit. This monitoring activity is a supervision activity on the implementation of rejected permit application by the community who wants to split their land farm function, so that it will need

¹¹ The interview result with Budi Santoso, the section of spatial plan, general services and spatial palan agency of Blitar city at 1 January 2019

¹² The interview result with Annas, the staff of spatial setting, general services agency and spatial plan of Blitar city at 3 January 2019

¹³ The interview result with Budi Kuncoro, head of dispute section, conflict and cases, land office of Blitar city at 1 Januray 2019

the supervision which become the duty of the land office of Blitar office and general services and spatial plan.¹⁴

It is pictured that the law implementation is very important in the community because the purpose of the law is on the implementation.¹⁵ Order and peace only happen if the law implemented and so for the contrary if the law is not implemented then the regulation will only just a words without meaning in the community, if the law cannot accommodate the demand of community then the consequences is the law will not run well and the people cannot get the certainty under the law.¹⁶

According to the opinion, it is known that the law enforcement is an effort process to enforce or functioning the legal norms in real as the guidance or law connection in the community and patriotic. Therefore, the treatment on the law enforcement is not only provide the sanctions through the criminal code also the enforcement on the law prevention so there won't be the same criminal occurred.

Law enforcement regarding the violation of land utilization permit, the land office of Blitar city and general services and spatial plan agency have the special team in running the activity which linked with the coaching and supervision particularly on the supervision of spatial utilization, monitoring and permit evaluation. The effort of the land office of Blitar city and general services and spatial plan agency have not effective yet to decrease the split function of a land to housing in Blitar city. Therefore, both of the agencies developing better performance on the supervision of spatial utilization, monitoring and evaluation to the community who still needs a lot information on the land farm split function to non agriculture mainly to housing.

Concerning the permit violation on the land farm utilization to housing in Blitar city there is a sanction which regulated under article 46 paragraph 3 of regional regulation of Blitar city number 10 year 2017. The administration sanctions as mentioned among them are:¹⁷

- a) Written warning;
- b) Temporary suspension of the activity;
- c) Temporary suspension of public services;
- d) Location closure;
- e) Revocation of permit;
- f) Cancellation of permission;
- g) Demolition of building;
- h) Recovery of spatial function
- i) Administrative fine.

Concerning the spatial supervision, monitoring and permit evaluation activities if there is violation on the permit regulation then they will get verbal rebuke, if there is no follow up from the land owner then they will get warning letter, the warning containing a warning so that the community stop the reconstruction and immediately file the permit first.

However, until today there is no sanction for the local citizen who violated the warning letter. It is because there a social aspect which become a consideration by the land office of Blitar city or even the general services and spatial plan agency. Majority of the citizen give an explanation that they only have only one field of the land that able to be build, for this reason

¹⁴ The interview result with Budi Kuncoro, head of dispute section, conflict and cases, land office of Blitar city at 1 Januar 2019

¹⁵ Sudargo Gautama, Ellyda T. Soetijarto. (1997). *Tafsiran Undang-Undang Pokok Agraria (1960)*. Bandung: Citra Aditya Bakti. p. 57

¹⁶ Johara T. Jayadinata. (1999). *Tata Guna Tanah Dalam Perencanaan Pedesaan, Perkotaan & Wilayah*. Bandung: ITB. p. 63

¹⁷ Article 46 paragraph (3) of regional regulation of Blitar City Number 10 year 2017 on the Detail Plan of Spatial Setting in the Area of City and Zone Regulation of Blitar City

it emerge a compassion from the land office of Blitar city and general services and spatial plan agency which affect the law enforcement concerning the split function of a land farm which will turn to housing.¹⁸

Furthermore, Mr Budi Koncoro also explained few factors which affect the function and duty of land office of Blitar city and general services and spatial plan agency, among them are:¹⁹

- a) Lacking and difficulty to get the date on the community who does not have the permit
- b) The lack of community role to remind each other.
- c) The report from regional government
- d) The report from the community itself

According to the research above, the writer concluded that the implementation role of the land office of Blitar city regulation together with general services and spatial plan agency is not effective yet to reduce the split function of a land farm to housing in Blitar city. Therefore both of the agencies doing the development on better performances on the supervision of spatial utilization, monitoring and evaluation to the community who needs a lot of information regarding the split function of a land farm into nonagricultural particularly to housing. The description above represented the problem they are facing today which is the lack of law enforcement in the split function of a land farm that there still many of buildings in the form of housing even a land that split function to nonagricultural and have no permit.

The Responsibility of Blitar Land Office in the Split Function of a Landfarm Into Housing in Blitar City

Concerning the duty of land office as regulated under article 2 of agrarian ministry regulation and spatial plan/ head office of land office of republic of Indonesia number 38 year 2016 concerning the organization and administration of regional offices of the national land agency and land offices (called PERMEN ATR/KEPALA BPN number 38 year 2016)²⁰, the writer concluded that the function and duty of land offices is to implement some part of function and duty of national land agency (BPN) in area of east java. Furthermore under article 3 of PERMEN ATR/KEPALA BPN number 38 year 2016 regulating about the function of regional offices, stated that the regional office carry out the function of :

- a) Coordination, coaching and implementation of plan preparation, program and the budget of regional offices and land office in the area.
- b) Coordination, coaching and implementation of survey, measurement and mapping, land rights establishment, land procurement, land control and handling land disputes and cases.
- c) Coordination, settlement of further action on supervision findings result;
- d) Checking, evaluating and reporting the implementation of land activity in the regional offices and land offices
- e) Providing administration support to the whole organization unit of regional office and coordination and administration coaching to the land office.

So the writer can conclude, in organize its duty, the land office have the function of coordination, coaching and plan preparation implementation, program and office budget of regional and land office in the area, survey implementation, measurement and mapping, land

¹⁸ The interview result with Budi Kuncoro, head of dispute section, conflict and cases, land office of Blitar city at 5 Januaray 2019

¹⁹ The interview result with Budi Kuncoro, head of dispute section, conflict and cases, land office of Blitar city at 5 januaray 2019

²⁰ Article 2 of PERMEN ATR/ KEPALA BPN Number 38 year 2016 stated that: "the office area have a duty in implement some of the duty and function of national land agency in the related area"

rights establishment, land registration and community development, supervision, evaluation as well as to providing administration support to the whole organization unit of regional offices and land office. According to the regional office function, on the responsibility of housing, there are function of measurement and mapping, establishment of land rights (letter b) because when the land farm split the function into housing then it will need the mapping and establishment of land rights (the rights of the land in function changing).

In order to organize the function and duty of national land agency in the region, it was formed the regional office of national land agency in the province and land offices in the district.²¹ However, on the duty and function of land office only have the authority on the technic consideration, which is come from the discussion result (meeting) with the related agencies which are general services and spatial plan agency and public housing agency.

The function and duty of Blitar city land offices is to implement some part of and function of national land agency in the area of east java. On this implementation, they always in coordination with related agencies which is general services agency and spatial plan of Blitar city since the decision making will always need the opinion on the consideration of permit on housing construction on the land farm. The result of those agencies being the basic of Blitar city land office to provide the technique consideration on the housing construction on the land farm. According to this matter it can be concluded that the land farm split function into housing in Blitar city the land office does not have full responsibility on the split function matter but there is responsibility from other agencies that suitable with the function and duties of the agencies.

CONCLUSION

The implementation of regulation by the land office of Blitar city in coordination with general services and spatial pan agency is not effective yet to reduce the split function of the land to housing in Blitar city. For this problem, both of the agencies developed in better performances on supervision of spatial utilization, monitoring and evaluation to the community who still need the information on split function of a land farm to housing. The problem is on the law enforcement is still weak when the existence of buildings and land farm that in split function to housing without permit.

The land office in Blitar city does not take full responsibility on the land split function cases, but there is division of responsibility from related agency with their suitable duty and function.

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