

## JURIDICAL ANALYSIS OF LAND ALLOCATION AGREEMENTS REGARDING EFFORTS TO TAKE OVER LAND BY BP BATAM

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### *Abstract*

*This research generally aims to determine the role of the Batam Concession Agency and the strategy of the Batam Concession Agency in managing land related to the existence of idle land. The research method used in this research is the normative juridical research method, namely a research method whose main data is obtained from statutory regulations. Based on the research results obtained and analyzed by land researchers in Batam City, it is regulated based on PERKA No. 3 of 2020 concerning the Implementation of Land Allocation, Land Rights in Batam City are divided into two, namely, HGB for 30 years and can be extended for 25 years, and Right to Use for 25 years and can be extended for 20 years, both rights can be renewed according to their interests. The position of the land agreement in Batam City is a product issued by BP Batam. The land agreement is made based on the request of the beneficiary of the Right to Get the approval from the head of BP Batam. Regarding idle land in the city of Batam, it is divided into two, land that has not yet completed administration and idle land that has completed administration but has not been utilized properly.*

**Keywords:** *agreement, land allocation, BP Batam*

### **A. Background**

The only God who gives grace and grace to mankind on the surface of this earth is one of the lands where we live. Earth has been a basic human necessity, from man's birth to the end of his life. The land is one of the basic needs of mankind, the land we can use as a resource for life we open the fields and will build a habitation on it. From a cosmological point of view, the earth is a part of the basic necessities of mankind in the course of his life, the place from which man came and the return of man when he was buried.<sup>1</sup> The discussion of the existence of land has a fairly wide dimension, including economic, social, cultural, political, and much more.<sup>2</sup>

In the accounting of the history of civilizations of mankind from the classical to the modern day, the existence of land is a central factor that receives special attention from every stage of human life. The land as a factor of the center is not only of economic value, the land is also of philosophical, political, social and cultural value of the community above it. It is no longer

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<sup>1</sup> Limbong, B. (2012). *Konflik pertanahan*. Margaretha Pustaka.

<sup>2</sup> Hannan, A., & Abdillah, K. (2019). Hegemoni Religio-Kekuasaan Dan Transformasi Sosial Mobilisasi Jaringan Kekuasaan dan Keagamaan Kyai dalam Dinamika Sosio-Kultural Masyarakat. *Sosial Budaya*, 16(1), 9-24.

a taboo if land becomes a special treasure that continues to be a source of perfect and complex social problems of its nature.<sup>3</sup>

In the life of the Law of Indonesia Land has a special position, it is a reflection of the behavior of the Indonesian people who give respect to the land, in other words the Indonesian people call the land as the homeland, the land of birth, the ground of struggle, land of independence, and land of heritage of the nation.<sup>4</sup>

Speaking of land on earth Indonesia has a very broad meaning, especially people who have a sense of feudalism, land is no longer meant as merchandise only, except if society possess large land then his social status is considered a man of money, because the land has a higher selling value every year.<sup>5</sup> The land possesses the privileges of the feudal society so that the value of the land is considered higher and not a mere commodity.<sup>6</sup>

The founders of the Indonesian nation are slow to sea acknowledging the importance and urgency of land, then shaping and formulating the existence of land and natural resources in a concise manner, as well as a solid but very philosophical substance in the Constitution as set forth in Article 33 (3) of the 1945 Basic Law (referred as to UUD 1945). Verse 33 explicitly states that "all the riches of nature which are in it".

The position and existence of land in the minds of the Indonesian people is also laid down in the Act No. 5 of 1960 on Agrarian Tree. (referred as to UUPA). The UUD 1945 and UUPA do not state that the State is the owner of the land, but use the word dominate. The word domination means that the existence of the state is as the holder of authority as the organization of power.<sup>7</sup>

This authority is limited in two ways: the restriction by UUD 1945 means that the Fundamental Rights guaranteed by UUD 1945 are not violated by the state in terms of land ownership and the substantive restriction as in accordance with paragraph (3) of Article 2 of UUPA is intended for the sake of the prosperity of the people while in paragraph (2) of article 2 of UUPA regulates the scope of land arrangements.<sup>8</sup>

The authority of the land holder is divided into:<sup>9</sup>

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<sup>3</sup> Nuraini, L., & Haryanti, D. (2021). Perlindungan Hukum Masyarakat Terhadap Hak Atas Tanah Ber-Status Quo Di Pulau Galang. *Jurnal Hukum Ius Quia Iustum*, 28(2), 307-324.

<sup>4</sup> Nasution, L. A. A. (2020). *Revitalisasi Cinta Tanah Air Tantangan Bangsa Indonesia dalam Menghadapi Era Society 5.0*. Samudra Biru.

<sup>5</sup> Harum, M., & Sutriani, S. (2017). Pengaruh pembangunan jalan tol Sutami terhadap nilai lahan disekitarnya. *Nature: National Academic Journal of Architecture*, 4(1), 66-73.

<sup>6</sup> Dwiyanany, S., & Wardhani, L. T. A. L. (2019). Sistem pertanahan Keraton Yogyakarta sebagai daerah otonomi khusus. *Jurnal Pembangunan Hukum Indonesia*, 1(2), 226-236.

<sup>7</sup> Pasal 33 Ayat 3 UU No. 5 Tahun 1960 tentang Pokok pokok Agraria.

<sup>8</sup> Sukmawati, P. D. (2022). Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia. *Jurnal Ilmu Hukum Sui Generis*, 2(2), 89-102.

<sup>9</sup> Riyanto, A., & Jamba, P. (2017). Peran Negara Dalam Penyelesaian Konflik Agraria (Studi Kasus Kampung Tua/Nelayan Di Atas Hak Pengelolaan Badan Pengusahaan Batam). *Jurnal Selat*, 5(1), 105-122.

- a. The general authority, the authority granted to the landholder to use his land, including the land, water and space above it. The rules of use of such land are restricted by the UUPA and other regulations so that the claimant of the right to land does not waste his land and as long as the land is used as it should be.
- b. The special authority is that the land owner has the power to use its land according to the type of right to his land.

State control over land, water and wealth that exists within the territory of Indonesia is then partly transferred to the Regional Government in accordance with the enactment of the Act 9 Year 2015 on Second Amendment to the Act No. 23 Year 2014 on Regional Government (referred as to UU Penda).<sup>10</sup> However, before the Declaration of Independence there were some areas that were granted special autonomy in land ownership such as the City of Batam.

Batam City is one of the cities that is within the scope of Riau Islands Province. The territorial territory of Batam City consists of several small islands that exist around Batam Island such as Rempang Island, Galang, and the islands surrounding the limestone.<sup>11</sup> The presence of Batam City, which is close to international shipping routes and close to two neighbouring States namely Singapore and Malaysia makes Batam a strategic city for trade, tourism and industry.<sup>12</sup>

Given the strategic location of Batam City, the Government felt the need to build Batam with the aim of being an industrial city.<sup>13</sup> In 1973 through the 41st PRESIDENT of 1973 on the Batam Island Industrial District (hereinafter called Batam Islands Keppres) was formed. The government structure in Batam City is administered by the Batam Authority. This means that Batam as an industrial city is given its own authority through the principle of decentralization.<sup>14</sup>

Batam Authority as the organizer in Batam City directly also given the authority to manage the land that is in the Batam city. As the time passed the existence of Batam authority as an organizer at Batam Town was transferred by the publication of the Mahda Act (referred as to BP Batam).<sup>15</sup> BP Batam is granted Land Management Rights by the State in accordance with Batam

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<sup>10</sup> Mahfiana, L. (2013). Sengketa kepemilikan hak atas tanah di Kabupaten Ponorogo. *Kodifikasia*, 7(1), 1-20.

<sup>11</sup> Mahfiana, L. (2013). Sengketa kepemilikan hak atas tanah di Kabupaten Ponorogo. *Kodifikasia*, 7(1), 1-20.

<sup>12</sup> Setyobudi, Y. F., & Anggriani, G. (2021). Peran Badan Pengusahaan Batam Dalam Pengelolaan Lahan Untuk Meningkatkan Investasi Penanaman Modal Asing Di Kota Batam Tahun 2017. *Jurnal Trias Politika*, 5(1), 62-73.

<sup>13</sup> Thandzir, M. (2023). Kebangkitan Industri Hospitality Di Kota Batam Pasca Pandemi Covid 2019. *Jurnal Mata Pariwisata*, 2(1), 34-40.

<sup>14</sup> Harianto, D., & Cornelis, V. I. (2022). Tinjauan Rangkap Jabatan Berdasarkan Peraturan Pemerintah Nomor 62 Tahun 2019 Tentang Perubahan Kedua Atas Peraturan Pemerintah Nomor 46 Tahun 2007 Tentang Kawasan Perdagangan Bebas Dan Pelabuhan Bebas Batam. *JAPHTN-HAN*, 1(1), 120-134.

<sup>15</sup> Winata, W. P. (2015). Kepastian Hukum Atas Pengalokasian Peruntukan Lahan pada Kawasan Hutan di Atas Hak Pengelolaan Otorita Batam. *Premise Law Journal*, 11, 14114.

Island Keppers. As the owner of the Land Management Rights indirectly stated that the entire land in the City of Batam is under the authority of BP Batam and also understood that against the ownership of land by individuals must be aware of BP Batam.

Government Regulation (Next mentioned PP) No. 46 of 2007 as amended by the mandate of BP Batam as mandated by Government Regulation No.46 of 2007 No. 5 of 2011 on Free Trade Areas and Free Ports of Batam (referred as to PP KPBPBB) BP Batom is authorized to manage, develop and build free trade areas and free ports in Batam city. In the sense that BP Batam is given authority to plan, allocate, supervise and evaluate land.

BP Batam as the Land Management Rights holder has the authority to grant or withdraw land allocation in the city of Batam according to the Regulations of the Head of the Batam BP or the Decision of the BP Batam. The allocation of the city of Batam has unique characteristics compared to other regions in Indonesia. This is because the granting of land management rights in other areas is given to certain land in the sense that not the entire territory within the scope of the district or municipality while in Batam, the land management rights are given over the whole territory of Batam city.<sup>16</sup>

This has resulted in a overlap of authority between the City Local Government and BP Batam. The allocation of land in Batam City is based on the grand design of the Batam city that was formed in the 1970s. He also made a map of the land in the city of Batam. The allocation of land in Batam was done according to the regulations of the Mayor of the Batam Government (referred as to Perka BP Batam). There are several stages that must be passed when a person or legal entity wants to own land, namely: the land allocation applicant submits an application to BP Batam, after such an application has been granted permission from BP Batam then the land applicant will obtain a permit from BP Batam in the form of a decision letter followed by the Land Use Agreement and payment of the Compulsory Year Money (referred as to UWT). After obtaining a decision from BP Batam regarding the granting of permission to manage the land in accordance with its provisions and location then the application for the allocation of land changes to the position of the Land User. The land user then registered the Land Management Rights to the National Authority of the City of Batam according to the rule of law.

## B. Identified Problems

In the Land Use Agreement in Batam City is charged comparatively between the Land Owner and the Land Rights Owner. The agreement is loaded with the Baku clause concerning how long the land is covered, the rights of the land Owner as well as the obligations of each party in the use of such land. After the land use agreement is signed, the land becomes the responsibility of the land user in full and in the case of land area, land layout

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<sup>16</sup> Hutaeruk, R., Sudirman, L., & Ramsen, R. (2015). Analisis Yuridis terhadap Perjanjian Pengalokasian Lahan di Pulau Batam. *Journal of Judicial Review*, 17(1), 1-13.

and coordinate points and their boundaries have been laid out in the Location Images (referred as to PL Images).<sup>17</sup>

In practice in the granting of land allocation, BP Batam often issues overlapping Location Settlements (referred as to PLs). It means that in a location of the land there are two people or legal entities that have the same PL. There are also lands that have been removed for use without being built up by land users, which has resulted in the land being included in the category of sleeping land. The existence of sleeping land especially in strategic areas such as the Batam Center has resulted in land use not being able to run effectively which has led to the economic development of Batam city not running.<sup>18</sup>

In principle, according to PP No. 20 of 2021 on “Areas and land recognition”, it is explained that “land is land that is not used, not used or not used in accordance with its condition or nature and purpose of granting rights on the basis of its possession while it has been granted rights to it by the state in the form of ownership, building rights, business rights, use rights and management rights”.<sup>19</sup>

On the problem of land sleep there is a clash between PP Land recognition with the Agreement on Land Usage that has been signed by BP Batam and the applicant for land use. Therefore, the author is interested to raise the title of “Juridical Analysis Of Land Allocation Agreements Regarding Efforts To Take Over Land By BP Batam”.

Based on the background of the research then the author tried to formulate some problems:

- a. How is the arrangement concerning the allocation of land in the city of Batam?
- b. What is the position of the land allocation agreement against the attempt to take over the land of sleep by BP Batam?

### C. Research Methods

This research uses the methodology of research jurisprudence normative is the method of legal research that is carried out by studying library material as its main material.<sup>20</sup> Use the Alignment as a System of Norms.<sup>21</sup>

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<sup>17</sup> Modjo, N. S. M., & Tan, D. (2021). Analisis Yuridis Pembatalan Surat Keputusan Alokasi Lahan Baru Oleh Bp Batam Berdasarkan Putusan Nomor 6/G/2017/Ptun-Tpi. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2449-2462.

<sup>18</sup> Kevino, R. (2020). Perancangan Mixed-Use Building Dengan Pendekatan Konservasi Energi Dan Tepat Guna Lahan Di Kota Batam.

<sup>19</sup> Limbong, D. (2017). Tanah Negara, Tanah Terlantar Dan Penertibannya. *Jurnal Mercatoria*, 10(1), 1-9.

<sup>20</sup> Ramadhana, W. R. W. (2021). The Juridical Analysis of the Institutional Relationship between the Financial Services Authority and Bank Indonesia Related to the Bank's Soundness Level. *Ilmu Hukum Prima (IHP)*, 4(2).

<sup>21</sup> Benuf, K., & Azhar, M. (2020). Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer. *Gema Keadilan*, 7(1), 20-33.



This study is a normative jurisprudential study of the Land Allocation Agreement against the attempt to acquire sleeping land by BP Batam. This research is expected to provide a contribution to the scientific knowledge that is required to be incorporated into the framework of mastery by the society over the Corporate Governance Rights of the Batam Free Trade Enterprise Agency referred as to BP Batam.<sup>22</sup>

The results of this research are expected to add special knowledge of the Law Sciences for the academics and the researchers later, so that in the end can fill the legal vacuum so that bring benefits to the preparation of the Legislative Regulations of the invitation in particular about the Land Rights Governance in Batam City.<sup>23</sup>

## D. Research Findings and Discussions

### 1. Provisions on Land Allocation in Border Cities

Act No. 5 of 1960 on UUPA, land is cultivated as the part facing the plains of the earth. Van Dijk stated that the Agrarian Act of 1960 establishes fundamental rights in the inherent in human life. The land is where we live, seeking life, the land is an important factor that has made Indonesia one of the richest countries.<sup>24</sup> The land that lies in the suburbs produces a lot of food for Indonesians, while the tropical weather also contributes to the fact that the Indonesian people have never had access to much food from the land.<sup>25</sup> It is similar to the section found in Paragraph (3) of Article 3 of the 1945 Act, which states that "the earth, air and water contained in its contents are managed by the government and can be used as much as possible for the public/people's benefit".<sup>26</sup>

Basically, land is a natural resource that is controlled by the state and used to the maximum extent possible for the prosperity of the Indonesian nation.<sup>27</sup> Management rights controlled by the state can then be distributed to the community, land management rights in the city of Batam are known as HPL.<sup>28</sup> Islamic legal literature calls HPL is a form

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<sup>22</sup> Hadiyati, N. (2019). Memahami Problematika Hak Pengelolaan Tanah Kota Batam Dalam Rangka Penetapan Batam Sebagai Kawasan Ekonomi Khusus. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 2(1), 51-65.

<sup>23</sup> Arianto, T., Nugroho, T., & Wahyono, E. B. (2015). Analisis Hukum Penguasaan Dan Pemanfaatan Tanah Oleh Masyarakat Di Atas Hak Pengelolaan Otorita Batam.

<sup>24</sup> Sufriadi, Y. (2011). Penyebab sengketa pengadaan tanah untuk kepentingan umum (studi kasus sengketa pengadaan tanah untuk kepentingan umum di Bengkulu). *Jurnal Hukum Ius Quia Iustum*, 18(1), 42-62.

<sup>25</sup> Rahman, F. (2023). *Jejak rasa nusantara: sejarah makanan Indonesia*. Gramedia Pustaka Utama.

<sup>26</sup> Naswar, N. (2020). *Rekonstruksi Fungsi Anggararan Dewan Perwakilan Rakyat Daerah Untuk Mewujudkan Konsistensi Perencanaan Dan Penganggaran* (Doctoral Dissertation, Universitas Hasanuddin).

<sup>27</sup> Salinding, M. B. (2019). Prinsip Hukum Pertambangan Mineral dan Batubara yang Berpihak Kepada Masyarakat Hukum Adat. *Jurnal Konstitusi*, 16(1), 148-169.

<sup>28</sup> Haerisma, A. S. (2019). Konsepsi pemikiran dasar ekonomi islam, ekonomi Pancasila dan ekonomi kerakyatan untuk kesejahteraan masyarakat. *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Syariah*, 4(2), 187-199.

of sound legality.<sup>29</sup> The nation may provide members. The state may be able to provide management rights to government agencies in an area. In Batam City, the management right is given to BP Batam, then BP Batam can give land rights to individuals or legal entities with the title of Land Rights above the management right.<sup>30</sup> Land Allocation at Batam City is regulated in the provisions of Articles 6 to 24 of PERKA No. 3 of 2020 on the Organisation of Land Allocation.<sup>31</sup>

As to the definition of land allocation is the process of liberation of certain parts of land from the management rights granted to the potential land users, in this case the holder of the Management Rights is the Batam Enterprise Agency Land Allocation in Batam City goes through several stage:

- a. Prospective HAT Recipients in Batam City submit a Land Allocation Request;
- b. Prospective HAT Recipient in Batam City submits Land Allocation Object;
- c. Prospective Recipients of Land Rights in the City of Batam provide information or information that the land will be used for certain purposes;
- d. Period of Land Allocation: (a) Building Rights Title is 30 years and can be extended for 20 years, (b) Right of Use is 25 years and can be extended for 20 years;
- e. The Application Procedure can be carried out by: (a) Individual or (b) Legal Entity;
- f. Recipient of Land Rights in the City for Building Rights and Use Rights shall pay a sum of money (UWT) to the Batam Concession Agency;
- g. The Batam Concession Agency then provides the Land Allocation Document to the Recipient of the land rights applied for;
- h. Finally, issuance of Land Allocation Document and Recommendation Letter from Batam Concession Agency to BPN Batam for issuance of Sertipikan in order to obtain Legal Certainty.

Prospective Right Recipients of land utilisation in Batam City are Persons or Legal Entities (corporations), religious institutions and government agencies, which submit written documents to the Head of BP Batam, the written documents contain an application for land utilisation for the benefit of its interests, the Land Object should be.

A flat ground (quary). The prospective beneficiary of the right shall provide information and a statement to the owner of the

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<sup>29</sup> Mujiburohman, D. A., & Soetarto, E. (2019). Penegakan Hukum Penertiban dan Pendayagunaan Tanah Terlantar.

<sup>30</sup> Gunadi, G. A. Pengaturan Hak Guna Bangunan Di Atas Hak Pengelolaan Bagi Bumh Kawasan Industri Sebagai Pelimpahan Kewenangan Negara.

<sup>31</sup> PPerka No. 3 Tahun 2020

management right that the land requested for its use is used for a specific purpose.<sup>32</sup> The term of allocation of land for building rights (HGB) for the first year is 30 years, before the expiration of the term of validity of the HGB two years previously can be applied for the extension of HGB, for the second year is 20 years.<sup>33</sup> For the right of use the term is 25 years, and can be extended 20 years. Usually the holder of the property rights is the Municipality of Batam who lives in the coast or the distributor of the lips of the Coast, e.g. Tanjung Uma Society most have obtained legal certainty by publishing the Association of Usage Rights for the period already established by the BP Batam.<sup>34</sup>

A certificate with a status of UWT owed cannot be done. Legal action, for example, sale, grant and inheritance, to neutralize the certificate in order for legal acts to be performed also have to pay the fee of BHTB, philosophy of (BPHTB) Customs Procurement of Land and Buildings is a kind of tax receipt of the State in the face of a legal event resulting in ownership of land to a new person, initially administered and collected by the Central Government will but now recovered by the Regional Government, the realization of the acceptance of BPHTB is entirely handed over to the Government of both the province and the district/city according to the provisions of Article 23 of the Act No. 20 Year 2000 on Amendment of the Law No. 21 Year 1997 on Land Acquisition and Building Rights.<sup>35</sup> After the UWT and BPHTB payments are made, the beneficiaries of the right to land from the management right can take legal action (sale and purchase, grants and inheritance).

An application for land allocation is made by individuals, legal bodies, religious bodies and social bodies in whose interests the application is submitted to an enterprise agency, with regard to the terms of allocation of land are:

- a. (WNI) Indonesian citizens, in their interests;
- b. Foreign citizens (WNA) in his interests according to the laws in force in Indonesia;
- c. Corporations or legal entities established and established in Indonesia under the law of Indonesia;
- d. State-owned enterprises (BUMN) and/or Government agencies.

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<sup>32</sup> Pane, A. S. (2021). *Hak Cipta Sebagai Objek Jaminan Fidusia Di Perbankan Syariah* (Bachelor's Thesis, Fakultas Syariah Dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta).

<sup>33</sup> Yulianto, A. F. (2021). *Analisis Pelaksanaan Peningkatan Hak Guna Bangunan Menjadi Hak Milik Untuk Rumah Tinggal Di Kabupaten Cilacap* (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

<sup>34</sup> Rasyid, A. A., & Harmain, H. (2018). *Analisis Penerapan Prinsip Akuntansi Dalam Meningkatkan Akuntabilitas Laporan Keuangan Masjid Di Indonesia*.

<sup>35</sup> Demak, N. A. K., & Lambey, L. (2016). *Evaluasi Pemungutan Bea Perolehan Hak Atas Tanah Dan Bangunan (Bphtb) Di Dinas Pendapatan Pengelolaan Keuangan Dan Aset Daerah (Dppkad) Kota Gorontalo*. *Jurnal EMBA: Jurnal Riset Ekonomi, Manajemen, Bisnis Dan Akuntansi*, 4(4).



Land Allocation Objects: land that has obtained legal certainty or has been issued certificates are divided into several sections:

- a. Land that is ready for development or land for which a masterplan has been issued by the Strategic Planning and Policy section Land maturation and approval from the Directorate of Regional Infrastructure.
- b. Unfinished land or finished land submitted by individuals or corporations.

Other requirements for the object of land allocation are that it is a flat area in accordance with the elevation planned in the business plan, and the utilisation of materials (quary) outside the planned elevation becomes the right and authority of Batam Concession Agency.

Supervision of land allocation in Batam City is very important to prevent land use that is not in accordance with the objectives and interests of the community.<sup>36</sup> In this case, the government should strictly monitor and supervise land allocation to ensure that land use is in accordance with the purpose and interests of the community.<sup>37</sup> Area development in Batam City should be conducted in a sustainable manner and orientated towards the welfare of the community. In this case, the development of the area should be carried out by considering the interests of the community, the environment, and the sustainability of the Indonesian society and nationality system.<sup>38</sup>

## 2. The Position of the Agreement of Allocation of Land Against the Attempt of Acquisition of Land Sleep by BP Batam

The status of the land allocation agreement in Batam City is based on President No. 41 of the year 1973.<sup>39</sup> and Ministry No. 1 of 1977, as well as the BPK Regulation No. 3 of the Year 2020.<sup>40</sup> The Land Allocation Agreement (SPJ) is a product which is dealt with by BP Batam as the Owner of the Management Rights, the Position of the Terms of Contract of Allocation of Land and the Use of Land on Certain Parts of Land Management Rights by concluding an agreement with a third party as specified in the Ministry Regulations No.1 of 1977 either before and after its publication the units of management rights are still based on the Press No. 41, 1973 and Perma No. 1, of 1977.<sup>41</sup> The Terms

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<sup>36</sup> Parindo, D., Atmaja, A. S., Pasaribu, V., Passaoran, H. A., & Dinanto, D. (2024). Evaluasi Pembangunan Proyek Nasional Dan Relokasi Masyarakat Melayu. *Jurnal Hukum Indonesia*, 3(1), 1-9.

<sup>37</sup> *Ibid.*

<sup>38</sup> Hapsoro, N. A., & Bangun, K. (2020). Perkembangan Pembangunan Berkelanjutan Dilihat Dari Aspek Ekonomi Di Indonesia. *Lakar: Jurnal Arsitektur*, 3(2), 88-96.

<sup>39</sup> Kepres No. 1 Tahun 1973 Tentang Daerah Industri Pulau Batam

<sup>40</sup> Arianto, D., Turnip, W., Azrianti, S., & Yanti, L. H. (2022). Tinjauan Hukum Terhadap Status Kepemilikan Dan Cara Pengalihan Hak Atas Tanah Di Batam Menurut Undang-Undang No. 5 Tahun 1960. *Jurnal Ilmu Hukum*, 1(1), 1-8.

<sup>41</sup> Nomor, P. M. D. N. (1). Tahun 1977 Tentang Tata Cara Permohonan Dan Penyelesaian Pemberian Hak Atas Bagian-Bagian Tanah Hak Pengelolaan Serta Pendaftarannya.

and Conditions of Landallocation on certain parts of land are valid and have been in accordance with the applicable Legislative Regulations.<sup>42</sup>

A letter of agreement formed before the issuance of the Certificate of Property Rights on the Land (SHGB or SHU) is invalid and cancelled by law because the right of management has not been registered.<sup>43</sup> The transfer of land use to a third party before the publication of the right of management does not provide legal certainty because the third party has not been able to register the land, while the transfer of the land after the opening of the Right of Management does not prevent the third person from registering the right to the land and authorize to commit legal acts including (buy and sell, grant, dan inheritance).<sup>44</sup>

The contents of the SPJ are: a document recorded on the basis of the date, date and year of the agreement made in SPJ document, in the document contained:

- a. Object of location of land;
- b. Land acquisition;
- c. UWT, duration of land use;
- d. Guarantee of development;
- e. Implementation of development on land;
- f. Obligation of the land user;
- g. Ban of land user;
- h. Registration of rights to land;
- i. Assignment of land rights;
- j. Transfer of rights;
- k. Change of provision;
- l. Evaluation and surveillance;
- m. Extention on renewal of right;
- n. Termination of right of land usage;
- o. Document of land allocation;
- p. Force majeure;
- q. Affirmation and processing of law;
- r. Warranty declaration;
- s. Correspondence;
- t. Supplementary provisions;
- u. Closure of provisions.

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<sup>42</sup> Modjo, N. S. M., & Tan, D. (2021). Analisis Yuridis Pembatalan Surat Keputusan Alokasi Lahan Baru Oleh Bp Batam Berdasarkan Putusan Nomor 6/G/2017/Ptun-Tpi. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2449-2462.

<sup>43</sup> Purnamasari, I. D. (2010). *Mendirikan Badan Usaha: Seluk Beluk Pendirian Usaha Oleh Masyarakat Umum Dan Bonus Cd Seputar Uu Terkait*. Mizan Pustaka.

<sup>44</sup> Hapsari, S. D., & Hafidz, J. (2017). Peran Notaris Dalam Implementasi Asas Nemo Plus Yuris Dan Itikad Baik Dalam Peralihan Hak Atas Tanah Sebagai Dasar Pembuktian Bagi Pemiliknya. *Jurnal Akta*, 4(1), 51-54.

In spite of his authority, BP Batam can grant HAT over management rights in the city of Batam.<sup>45</sup> Land, counted from the Date of Land Use Period, users are prohibited from using their HAT outside of their own request or outside of the Provision.<sup>46</sup> Payment of Annual Payment (UWT) to BP Batam in accordance with the nominals invoice for a period of 30 years and extended or renewed data on the right to the land.<sup>47</sup> For the Development of Industrial, Port, Tourism, and Housing Areas in Commercial and Port Free Areas, Land Users are obliged to deposit a sum of money into the BP Batam Account as a Guarantee of Implementation of Development (JPP) with the aim of making land users realize their buildings.<sup>48</sup> Land users are required to apply for a Planology Fatwa to BP Batam within 15 days from the date of publication of the SPJ.<sup>49</sup>

BP Batam gives a recommendation/proposal to BPN RI, the Land Authority in Batam City to grant the Land Rights Certificate of Building Guan Rights on Management Rights to Land Users who have fulfilled the terms and obligations to Batam BP.<sup>50</sup> In the case of land users intending to transfer the right of use of the land, then BP Batam will only give written consent or permission for the transfer of rights if:

- a. The land users submit an application through the Land Management System (LMS),
- b. There is no UWT transfer,
- c. There are no changes to the provision,
- d. The land is not in the process of evaluation or dispute,
- e. The foreign party will accept the transfer of rights must meet the subject as a land user, and
- f. The transfer administration fee of the right is 2.5% of the value of the NJOP.

Renewal or renewal of the right can be extended for a period of 20 years, or renewed for 30 years, the application for renewal is approved by BP Batam with a maximum term of 15 years and a

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<sup>45</sup> Riyanto, A., & Jamba, P. (2017). Peran Negara Dalam Penyelesaian Konflik Agraria (Studi Kasus Kampung Tua/Nelayan Di Atas Hak Pengelolaan Badan Pengusahaan Batam). *Jurnal Selat*, 5(1), 105-122.

<sup>46</sup> Syarif, E. (2014). *Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan*. Kepustakaan Populer Gramedia.

<sup>47</sup> Actika, A., & Agustianto, A. (2020). Tinjauan Hukum Mengenai Pengenaan Uang Wajib Tahunan Terhadap Pemilik Sertipikat Hak Milik Yang Berada Diatas Hak Pengelolaan Di Kota Batam. *Journal Of Judicial Review*, 22(1), 112-127.

<sup>48</sup> Anggraeny, I. (2014). *Akibat Hukum Insinkronisasi Pengaturan Bidang Pertanahan Di Kota Batam* (Doctoral Dissertation, Brawijaya University).

<sup>49</sup> Maria, C. D. P. (2012). *Kajian Hukum Terhadap Pengalokasian Lahan Untuk Fasilitas Umum Diatas Hak Pengelolaan Untuk Kegiatan Perumahan (Studi Pada Perumahan Plamo Garden Dan Taman Harapan Indah Di Kota Batam)* (Doctoral Dissertation, Universitas Sumatera Utara).

<sup>50</sup> Khoiriyah, K. (2021). *Penerapan Konsep Syariah Pada Kredit Pemilikan Rumah Di Masa Pandemi Covid-19 (Studi Kasus Pada Royal Zarmina Residence Palangka Raya)* (Doctoral Dissertation, Iain Palangka Raya).

maximum of 2 years before the term of construction right of the building expires. The right to use the land:

- a. The time limits stipulated in the Agreement,
- b. The Agreement is cancelled by the HL Owner, because of leadership or non-performance,
- c. Is freed voluntarily,
- d. Is discharged,
- e. Is destroyed, and
- f. Land Users do not meet the Conditions as Subjects of land Users.

Force Majeure is a situation or event that occurs suddenly outside the capacity of the respective parties, on the occurrence of such incident affects one of the parties so that it is not able to fulfil its obligations in accordance with a stipulated agreement, which is assisted in force majeure are Natural disasters, State of War, Emergency, Fire, Changes in Government policy that can directly affect the Implementation of the Agreement.

The term of validity of the right to land with the legality of SHGB is 30 years and can be extended for 25 years, while the SHGU is 25 years and may be renewed for 20 years, if it has been completed 2 years before it is recommended for the recipient of the land has already applied for the renewal of the rights to the land, the end of the Agreement of Allocation of Land in Batam City is an agreement that regulates the use and management of land on land management rights of BP Batam.

Furthermore, the parties agree that the entire document relating to the process of allocation of land merges into one unity and becomes an integral part of the Charter of Land Allocation. The attempt to acquire land by BP Batam is interpreted from the Land Usage Agreement on Article 15, but in this study, the researchers focused on Article 15 Number 1 letter E, that is, abandoned land. The definition of abandoned Land or land is land that has been allocated to the second party, but has not been economically utilized for a long time.<sup>51</sup>

Ariastuty Sirait, Chief of the Bureau of Human Rights and Protocols of BP Batam, underlined the commitment to resolve the problem or question of sleeping land with the formation of Perka No. 11 Year 2023 on Maintenance of Land Management in Batam City. Land use is one of the components regulated in the procedure, as the stage in its administration is:

- a. Land that has been allocated its use, but no development will be done termination, followed by land that has already been used name has not applied for extension of the UWT, automatically PTSP BP Batam will issue invoice of invoicing of the UWT extension, if not paid also invoices of UWT, then the beneficiary

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<sup>51</sup> Kabar Sumatera link <https://sumatra.bisnis.com/read/20231218/533/1724876/penyelesaian-lahan-tidur-di-batam-perlu-waktu-panjang> diakses Selasa 07 Mei 2024 Jam 10:23

of the right of use of the building will be sealed, and after obtaining a letter from the BP Batam has not been paid also then, BP Batam will do termination of the rights of use the building.

- b. End of the allocation of the land in the term as already specified in the Land Allocation Document and no extension or renewal of the claim on the land, and the waiver of rights.

The area of the sleeping ground continues to grow from year to year. From 2015 to 2019, the sleeping land area reached 8.203.99 hectares (Ha), with six points in Central Batam, eleven in Kabil, and twelve in Tanjung Uncang. This can be a barrier to investment because many capital investors want to invest in Batam but can't do it because of land shortage. This land is very important because many investors have come before but the land has already been owned by other parties. Until the publication of BP Batam Head Regulations No. 3 of 2020 on Maintenance of Land Allocation, obliging landowners in Batam to immediately work.

## E. Conclusions

1. **The Regulations on Land Allocation in Batam City:** The allocation of land in Batam City is regulated by Batam No. 3 of 2020. Land can be allocated to Indonesian citizens, foreign nationals, corporations established in Indonesia, and government agencies, in accordance with Indonesian laws. The phases for land allocation include the submission of a Land Allocation Promotion by the candidate, application for Land Allocation, and provision of a statement regarding the specific use of the land. The term for Building Usage Rights is 30 years, extendable for 20 years, and the term for the Right of Use is 25 years, renewable for 20 years. Beneficiaries must pay a sum (UWT) to the Batam Enterprise Agency, which then issues the Land Allocation Document and a Letter of Recommendation to the BPN Batam for certificate issuance to ensure legal certainty.
2. **The Position of the Land Allocation Agreement Against the Attempted Land Acquisition by the BP Batam:** The Land Allocation Agreement (SPJ) is related to the Land Usage Agreements issued by the BPO Batam. This study focuses on Article 15, particularly Article 15 Number 1 letter E, which addresses abandoned land. Abandoned land is defined as land allocated to a second party but not economically utilized for a long time. If allocated land is not developed, it will be terminated, and if the extension of UWT is not applied or paid, the right of use will be revoked by PTSP BP Batam. From 2015 to 2019, abandoned land in Batam reached 8,203.99 hectares, including areas in Central Batam, Kabil, and Tanjung Uncang. This poses an investment barrier as land shortages prevent capital investors from investing. To address this, BP Batam issued Regulation No. 27 of 2017, requiring landowners to repair and utilize their land.



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