

Validity of Rental Agreement for Renting Land of Reward Between Village Head with Private Parties Who Exceed the Term of Office Village Head

Enno Sellya Agustina¹, Tunggul Anshari², Aan Eko Widiarto³

Faculty of Law University Brawijaya Malang, Indonesia¹²³

Email: Ennosellya@student.ub.ac.id

ABSTRACT

Based on the issues related to the lease of reward land between the village chief and a private party that exceeds the chief's term, this paper aims to analyze the legality of the lease agreement for reward land between the village chief and a private party that extends beyond his term of office. In this paper, the researcher uses a normative juridical method, along with a legislative and case study approach. Then, with this analysis, the researcher can address the raised issue about the legality of the lease agreement for reward land between the village chief. From these issues, it can be concluded that the legality of the lease agreement for reward land between the village chief and a private party is regulated in Permendagri Number 1 of 2016 concerning the Management of Village Assets, with the maximum lease limit for reward land being a maximum of 3 (three) years. If there is a lease agreement for reward land between the village chief and a private party that exceeds the chief's term of office, then the agreement is legally void.

Keywords:

Agreement, Lease
Land Rewards,
Village Head

INTRODUCTION

According to Law No. 23 of 2014 on Local Government and Law No. 6 of 2014 on Villages, it is explained that a village is a legal community unit with the authority to manage its own community's interests. In governance, a village is led by a village chief, as mentioned in Article 2 paragraphs (1) and (2) of Law No. 23 of 2014 on Local Government, which states that within the local government of a district or city, a village government is formed consisting of the village government and the Village Consultative Body. (UU No.23, 2014) The village chief, as referred to, is elected directly by and from the village residents, with further requirements and the election procedure regulated by regional regulations in accordance with government regulations. The term of office of the village chief is 5 years and may be re-elected only for one subsequent term. (UU No.6, 2014a)

In Law Number 6 of 2014 on Villages, it is stated that village assets, as property belonging to the village, originate from the village's own wealth, purchased or acquired at the expense of the Village Revenue and Expenditure Budget or other lawful acquisitions. Villages need to recognize their assets to realize independent villages, meaning, the village can utilize and maximize all its assets for the welfare of the residents. (Dewi Lestutui Ambarwati, 2022) According to Article 76 paragraph (1) of Law Number 6 of 2014, it states that "Village assets can be in the form of village treasury land or commonly known as reward land/bengkok, communal land, village markets, animal markets, boat moorings, village buildings, fish auctions, agricultural product auctions, village-owned forests, village-owned springs, public baths, and other assets owned by the village. (UU No.6, 2014)

As per the new regulations in Article 77 of Law Number 6 of 2014 on Villages, it is explained that village treasury land, which should be a village asset and managed by the village for public interest, functionality, legal certainty, transparency, efficiency,

effectiveness, accountability, economic value certainty, and for the welfare and improvement of the village community's standard of living and to increase village income.(UU No.6, 2014b) However, there are still many misuses of village treasury land and its apparatus, such as the practice of selling or leasing village treasury land for personal interests, not because the legal regulations are not aspirational, but more due to violations in the implementation of these regulations. Guidelines for the use of village treasury land still often refer to the old rules, namely the Minister of Home Affairs Regulation (Permendagri) Number 4 of 2007 on Village Wealth, which explains that village treasury land is managed by the village chief and village apparatus as a facility during their term because at that time the government had not established a fixed income for the village chief and his apparatus. Village treasury land has a very important function for the welfare of the people; therefore it must be protected and have legal certainty to prevent misuse. One form of utilization of village treasury land is by leasing it to other parties, the proceeds of which are then allocated for the welfare of the village community.

However, in reality, a case was found where parties S and L, who are residents of Selosari village, are mentioned as the parties renting the reward land of Selosari village. S and L rented the reward land for the duration of the old village chief's tenure (6 years), but after serving (Soerjono Soekanto, 2009) for those years, the old village chief wanted to extend the lease period of the reward land. They also made an agreement with the old village chief that if he did not win the election to serve a second term, all the compensation for damages would be borne by the old village chief. However, as time went by, the old village chief lost the election and passed away a few months later. Meanwhile, parties S and L were already bound by the agreement to extend the lease period of the reward land. In addition, there were still cassava plants on the reward land that were not yet ready to be harvested. However, in this case, the new village chief did not hold a consensus meeting with parties S and L, even though the reward land still had crops waiting to be harvested for more than 3 months, but he cleared the land without the consent of the concerned parties. Parties S and L felt aggrieved and uncertain about the legal regulations in Article (6) of the Kediri District Regulation No. 14 of 2004. Furthermore, parties S and L felt unjustly treated as the new village chief caused them a financial loss of 5 million for the cleared crops over 1 hectare.

METHOD

The type of research used by the researcher is normative juridical research. In this research, normative juridical research refers to legal research conducted by examining library materials or legal literature research (Soerjono Soekanto, 2001) Normative legal research is conducted to produce arguments, theories, or new concepts as a basis for solving legal issues faced. The specific normative juridical research used in this study is related to the legality of the lease agreement for reward land between the village chief and a private party that exceeds the village chief's term of office.

The approach adopted by the researcher includes a legislative approach and a case approach with the aim of obtaining a comprehensive study related to the legal construction of reward land management. The legislative approach is conducted by examining all laws related to reward land and the regulations associated with the legal issue being studied by the researcher. Subsequently, the case approach is used,

which is an approach applied in normative research to study the application of legal norms or principles in legal practice, especially in cases that have occurred. The case approach in this research aims to provide insights into the normative dimension and the effects of a legal rule in the practice of reward land management for the residents of Selosari village.

In conducting this research, the researcher uses primary legal materials, secondary legal materials, and tertiary legal materials as follows:

Primary legal materials are binding and authoritative materials, consisting of norms, basic regulations, legislation, non-codified legal materials, jurisprudence, treaties, and legal materials from the colonial era. The primary legal materials used in this research include:

- a) The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945)
- b) Law Number 5 of 1960 on Basic Agrarian Principles (UUPA)
- c) Government Regulation No. 11 of 2019 on the Second Amendment to Government Regulation No. 43 of 2014 on the Implementation of Law Number 6 of 2014 on Villages
- d) Law Number 23 of 2014 on Regional Government
- e) Ministry of Home Affairs Regulation No. 4 of 2007 on Guidelines for Village Wealth Management
- f) Kediri District Regulation No. 24 of 2004 on the Financial Position of Village Chiefs and Village Apparatus, Additional Kediri District Gazette No. 8 Series 2.

Secondary legal materials provide explanations regarding primary legal materials, such as books or literature closely related to the discussion of legal issues raised, research results that correspond to the researcher's paper from various academic meetings, writings by legal experts, and more. The secondary legal materials used for this research come from textbooks written by agrarian law experts, as well as a number of legal journals and opinions of scholars. Tertiary legal materials provide guidance and explanations on primary and secondary legal matters, such as legal dictionaries and encyclopedias that support and provide explanations.

The legal research techniques used by the researcher are as follows:

- a) Library Research: In this case, the researcher obtained legal materials through library research by searching for legal materials, studying and examining legal articles, literature, legal books, and legal regulations related to the research issue. This involves a literature study at the Documentation Center of Legal Science at Brawijaya University and the Brawijaya University Library.
- b) Internet Search: The researcher obtained research materials by searching for legal issues through online sources, such as online articles, e-journals, and official websites with verified accuracy related to the research topic.

The analysis of legal materials is an activity in research that involves studying or examining the processed data with the assistance of previously obtained theories. (Mukti Fajar & Yulianto Achamad, n.d.) In this normative legal research, all the collected primary legal materials will be categorized, interpreted, and analyzed using systematic interpretation. According to P.W.C. Akkerman, as cited by Peter Mahmud Marzuki, systematic interpretation is an interpretation that considers the interrelationships between rules within a law that are mutually dependent. (Peter Mahmud Marzuki, n.d.) Additionally, it should be noted that these relationships are not

only technical but also based on principles. The underlying concept of systematic interpretation is that a law is a unified whole, and none of its provisions can be interpreted as if it stands alone. In other words, no provision of legislation can be interpreted as if it stands alone.

The interpretation of primary legal materials aims to provide an in-depth discussion of the content of various legal regulations relevant to the management of reward land in Indonesia. Secondary legal materials in this research are analyzed using descriptive analysis, which involves searching for legal foundations from various legal literature to obtain concepts and doctrines from legal experts. This is done to position the issues raised in line with the legal theories used by the researcher as an analytical tool. The analysis of secondary legal materials aims to strengthen the argumentation in terms of doctrines and legal theories obtained previously. The process of analyzing legal materials begins with the substance of primary legal materials, which consist of legal regulations. Subsequently, the analysis is conducted.

RESULTS AND DISCUSSION

the government: on the contrary, the government is obliged to fully respect the inherent autonomy possessed by the village. As a legal community unit with an original structure based on special rights, a village can engage in both public and civil legal actions, possess property and assets, and can be sued and sue in court. (UU No.23, n.d.) The exercise of the rights, authority, and freedom of village autonomy demands responsibility to preserve the integrity, unity, and unity of the nation within the framework of the Unitary State of the Republic of Indonesia and the responsibility to realize the welfare of the people as implemented within the framework of applicable laws and regulations. Law Number 23 of 2014 concerning Regional Government, in conjunction with Law Number 6 of 2014, has provided opportunities and opportunities for villages to empower village communities and villages. Village communities can realize self-reliant communities (village autonomy) as genuine autonomy. The law identifies three patterns of autonomy: provincial autonomy as limited autonomy, district or city autonomy as broad autonomy, and villages as genuine autonomy. Autonomous villages will provide ample room for development planning that meets the real needs of the community and is not burdened by work programs from various agencies and governments. The existence of villages is an integral part of the Unitary State of the Republic of Indonesia. To strengthen the implementation of village autonomy, it is expected that the district government will intensively and comprehensively strive for several policies, including the following (Mardiasmo, 2014)

- a) Providing access and opportunities for villages to explore the potential of natural resources within their territory for use as village revenue sources without neglecting the functions of preservation, conservation, and sustainable development.
- b) Programming assistance to villages in accordance with the provisions stipulated by applicable laws and regulations.
- c) Facilitating efforts to enhance the capacity of village government, community organizations, and other components of the community in the village through guidance, supervision, guidelines, guidance, training, direction, and supervision.

Village governance is an activity carried out as part of the administration of government by the village government and/or sub-district. Based on the above description, regarding the administration of government carried out by village government, it means that the administration of village government cannot be separated from regional autonomy, and village government is the forefront unit in serving the community and a strategic pillar for the success of all development programs.

The empowerment of village potential is part of the development paradigm that focuses on all essential aspects of humans in their environment, ranging from intellectual aspects (Human Resources), material and physical aspects, to managerial aspects. These aspects can be further developed into social-cultural, economic, political, security, and environmental aspects. Conceptually, community empowerment is an effort to elevate the dignity and status of community members who are currently unable to escape from the trap of poverty and underdevelopment. In other words, empowerment is about enabling and empowering the community. Empowering the community is an effort to empower the community by realizing the potential and capabilities they possess. Community empowerment always involves two interconnected groups: the community being empowered and the caring party as the empowering entity.

Community empowerment is closely related to the empowerment of the people's economy. In the process of community empowerment, the focus is on the development of human resources (in rural areas) and the creation of entrepreneurial opportunities that align with the community's desires. The community determines the type of business and the local conditions, which in turn can create institutions and service systems from, by, and for the local community.

Efforts to empower the community are ultimately aimed at empowering the people's economy. Empowerment in the context of the community is the ability of individuals to come together in society and build the empowerment of that community. A society in which the majority of its members are physically and mentally healthy, educated, and strong undoubtedly possesses high empowerment. Community empowerment is a fundamental element that allows a society to survive and, in a dynamic sense, develop and progress. Community empowerment itself becomes the source of what is referred to in political terms as national resilience. This means that if the community has a high level of economic capability, it is part of national economic resilience.

In this framework, efforts to empower the community should begin by creating an environment or climate that allows community potential to flourish. The starting point is the recognition that every human being, every community, has potential that can be developed. This means that no community is completely devoid of power, as otherwise, it would perish. Empowerment is an effort to build that power by encouraging, motivating, and raising awareness of their potential and striving to develop it.

Furthermore, these efforts are followed by strengthening the potential or capacity possessed by the community itself. In this context, more positive steps are needed, beyond just creating a conducive climate and atmosphere. This strengthening includes concrete steps and involves providing various inputs and opening access to various opportunities that will make the community more empowered. Thus, empowerment not only involves strengthening individual members of the community

but also its institutions. Instilling modern cultural values such as hard work, thrift, openness, responsibility, and others is an integral and essential part of empowerment efforts itself.

In relation to the empowerment of village potential, in this case, a more in-depth examination will be conducted regarding the supervision of village asset management by the village head. In broad terms, the legal basis for the management of village assets, based on the hierarchy of laws and regulations, is based on several provisions, as follows:

- a) Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that land and water and the natural wealth contained therein are controlled by the state and used to the maximum for the prosperity of the people. According to this article, all-natural wealth, both on the surface of the earth and beneath it, is under the control of the State. This has been further regulated in Law Number 5 of 1960 concerning the Basic Agrarian Regulations (UUPA).
- b) Law Number 23 of 2014 concerning Regional Governance, as mentioned in Article 371 paragraph (1), states that villages have authority in accordance with the provisions of laws and regulations concerning villages.
- c) Law Number 6 of 2014, in Article 26 paragraph (4) letter i, stipulates the obligations of the village head, including managing the finances and assets of the village, and Article 71 paragraph (1) letter g regarding other legitimate village income. Furthermore, Article 76 paragraph (1) of Law Number 6 of 2014 concerning Villages stipulates that village assets can include village treasury land, ulayat land, village markets, livestock markets, boat moorings, village buildings, fish auctions, agricultural product auctions, village-owned forests, village-owned springs, public baths, and other village assets.
- d) Minister of Home Affairs Regulation Number 113 of 2014 concerning Village Financial Management, in Article 3, states that the Village Head is the holder of the authority to manage village finances and represents the Village Government in the ownership of separated village wealth.
- e) Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management provides comprehensive, clear, and specific regulations regarding the management of village assets.

Based on Article 12 of the Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management, which stipulates that:

- 1) The utilization of village assets in the form of leases does not change the ownership status of village assets.
- 2) The lease period as referred to in paragraph (1) is a maximum of 3 (three) years and can be extended.
- 3) The lease of village assets is carried out based on an agreement that includes at least: (PP No.1, 2016)
 - a. Parties bound by the agreement.
 - b. The object of the lease agreement
 - c. Type, size, or quantity of the goods, the amount of rent, and the lease period.
 - d. The tenant's responsibility for operational and maintenance costs during the lease period
 - e. Rights and obligations of the parties
 - f. Force majeure

g. Other deemed necessary requirements.

Based on the provisions mentioned, there are regulations regarding the terms and procedures for leasing village reward land. An issue arises when a village head, in the fifth year of their term, leases village reward land for a period of up to 3 years, which means the lease continues beyond their term, and a new village head takes office while the land is still leased to a third party. Referring to Article 12 paragraph (2) of Regulation of the Minister of Home Affairs Number 1 of 2016 concerning Village Asset Management, this is allowed, as long as it complies with the maximum lease period for village reward land, which is a maximum of 3 years. The outgoing village head in this case is obligated to be accountable for the governance he has undertaken, including the reward land that he has leased to the new village head in the upcoming period.

Based on this, there is a need for effective supervision of village reward land management as one form of village assets. Supervision is essentially part of management, where in management science, supervision is the activity of a manager striving to ensure that tasks are carried out as planned. Regardless of how good a plan is, it will fail if managers do not conduct supervision. In supervision, the results that have been achieved can be assessed. The method used in supervision is to compare what has been done with the standards or plans and make corrections if there are deviations.

Supervision of the village government's administration is a process aimed at ensuring that the village government operates in accordance with the plans and provisions of the applicable laws and regulations. To optimize the function of guidance and supervision, regional governments can impose sanctions on village government officials if deviations and violations are found. Financial and workforce readiness of the region to meet the village's revenue and expenditure budget needs to be done so that village government and development activities can run smoothly. An inventory and identification of financial sources, both real and potential, also need to be conducted.

In relation to financial supervision of the village, and its juridical impact with the enactment of Law Number 6 of 2014 concerning Villages, the main goal of supervision is to reconcile all receipts and expenditures with the aim of achieving efficiency in relation to the implementation of the Village Budget, where the budget is a work plan incorporated into the budget plan, order to ensure compliance with all legal provisions and policies determined by both the regional and village governments. Therefore, supervision needs to be carried out intensively and continuously, especially internal control, with the aim that financial administration must be dynamic and able to keep up with the development of financial administration, which ultimately becomes more perfect. A supervisor, in carrying out supervision, must be able to perform their supervisory duties effectively.

A supervisor must have a good grasp of the subject being supervised. Therefore, a supervisor should possess general knowledge, specific skills, and be able to understand all issues related to their field. A supervisor plays a crucial role in carrying out supervisory tasks with the aim of ensuring that supervision is carried out effectively and efficiently. However, in practice, it is often observed that supervision does not pay attention to negative aspects. In practice, as long as bookkeeping has been done well, it is considered effective. Consequently, the resulting reports tend to

be positive, and the difficulties faced by both the supervisor and the party being supervised are not reflected.

To achieve the goal of successful and effective village autonomy, a control or supervision system is needed that is both constructive (building) and capable of encouraging creativity and motivation in the region to manage its own affairs. One aspect of this is the supervision of regional financial management to ensure that it is carried out effectively and expected to increase regional revenue. In an organization, the supervision system plays a crucial role in ensuring that everything runs in accordance with the organization's mandate, vision, mission, goals, and targets. The primary objectives of the supervision system are accountability and the learning process. In terms of accountability, the supervision system ensures that development funds are used in accordance with ethics and legal regulations to achieve fairness. From a learning perspective, the supervision system provides information about the impact of programs or interventions, allowing decision-makers to learn how to create more effective programs.

CONCLUSION

The validity of the lease agreement for reward land between the village head and a private party is regulated in Regulation of the Ministry of Home Affairs Number 1 Year 2016 concerning Village Asset Management, with a maximum lease period for reward land being a maximum of 3 (three) years. If a lease agreement for reward land is made between the village head and a private party that exceeds the village head's term of office, then the agreement is null and void in terms of the law.

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