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Submission date: 23-Feb-2024 10:07AM (UTC+0700)

Submission ID: 2302124618

File name: ijobss-_yuwono_115-119.pdf (741.17K)

Word count: 3634

Character count: 19529



Abuse of Authority in Complete Systematic Land Registration (CSLP) In Cikupa Village, Cikupa District, Tangerang Regency, Banten

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Submitted: Nov, 29th 2022 Revised: Dec, 9th 2022 Publication: Dec, 12th 2022

Keywords

Abuse of
Authority,
Illegal Charges,
CSLP.

Abstract

Abuse of authority is an act against the law, an act that exceeds the authority possessed for self-interest or benefit. This abuse of authority occurred in the Complete Systematic Land Registration (PTSL) program in Cikupa Village. The Complete Systematic Land Registration Program itself is a government program so that people in villages or sub-districts register their land to obtain a certificate of ownership of the land ownership, to achieve legal certainty and protection of land rights according to the UUPA. In its implementation, there is an abuse of authority in the form of illegal levies. This article uses normative legal research methods, qualitative data analysis is carried out as an analytical knife, Gustav Radbruch's legal theory about the purpose of the law, legal behavior according to Lawrence M Friedman and Donald Black, and the theory of authority from Ateng Syafrudin. The modus operandi of abuse of authority through illegal levies is by inflating the cost of administering the land registration program beyond the amount determined by legislation, the proceeds from illegal levies by the suspects are used for campaign funds for the Village Head election and personal gain. To handle this action, it is necessary to have administrative and criminal sanctions for the perpetrators, public control by community members and assistance by the academic community are also very necessary to prevent acts of abuse of authority in this program.



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1. Introduction

Land is one of the basic necessities of natural resources that serves as the foundation of society's livelihood, as a place to build homes, a source of food production, and other primary needs. In addition, the control of land encompasses political, economic, cultural, and social aspects. The registration of land is the responsibility of the Republic of Indonesia or any jurisdiction in utilizing land use to the greatest extent possible for the welfare of the people. The government and landowners are required to register their land to ensure legal certainty and protection of land rights, to know the status and legal position of the land, its size, location, owner, and any encumbrances on it.

The Complete Systematic Land Registration Program, known as PTSL, is a government program for the first systematic registration of land, covering land objects that have not been registered in a village or district. Through this program, the government seeks to provide legal certainty and rights to the land owned by the

community. The registration of land has made progress through the PTSL program implemented by the Ministry of Agrarian and Spatial Planning / National Land Agency, with completion up to July 2022 at 74.8% or approximately 94 million certificates, with 25.2% remaining from the target of 126 million land parcels throughout Indonesia by 2025 (nasionalkontan.com, July 26, 2022). However, the lack of facilities, infrastructure, and supervision, along with the announcement of physical data, juridical data, and the application of the delimitation contradiction principle that cannot meet the target, create gaps for many problems triggered by unregistered land owned by individuals, which often leads to criminal acts, such as land disputes, land certificate forgery, land certificate duplication, and inter-family land disputes that can have a negative impact on the economic development of Indonesian society (Harsono, 2005).

Based on the above presentation, the following issues are examined: What is the modus operandi of abuse of authority in the complete systematic land registration in Cikupa village? and What steps can be taken to address abuses of authority?

2. Materials and Methods

This article is based on normative legal research that refers to secondary data including primary, secondary, and tertiary legal materials. The research is descriptive and the data was collected through a literature review. The data collection and processing were done qualitatively. Data analysis was carried out qualitatively using deductive logic, using legal theories such as Gustav Radbruch's theory on the purpose of law, Lawrence Meir Friedman and Donald Black's theory on the behavior of law, as well as Ateng Syafrudin's theory on authority as an analytical tool through interpretation based on content analysis (Santoso, 2021).

3. Results and Discussion

A. Mode of Abuse of Authority

The implementation of land registration activities stated in Article 19 of the UUPA includes the collection, measurement, bookkeeping, and maintenance of physical and juridical data on land areas, including the issuance of land certificates as proof of ownership rights and land areas that have already been granted ownership specific rights. The government's efforts to provide opportunities for the community are reflected in the implementation of Minister of ATR/BPN Regulation No. 1 of 2017 on Amendment to Minister of ATR/BPN Regulation No. 35 of 2016 concerning Acceleration of Complete Systematic Land Registration. The purpose of land registration is to achieve legal certainty over land rights. The final form of land registration implementation is the ownership certificate or land ownership guarantee. However, there may still be a gap for the risk of illegal levies carried out by certain parties. Illegal levies in the field of land are a form of acceptance without clear rules or legal guarantees that protect the rights of the landowner, and illegal levies that are classified as corruption still exist until now.

According to Moh Toha Solahuddin, illegal levies or extortion are acts demanding payment that is not in accordance with regulations related to payment rules. These acts are carried out by individuals, civil servants, or state officials. The eradication of illegal levies is mandated by Presidential Regulation No. 87 of 2016 concerning the Task Force for the Eradication of Illegal Levies, which aims to effectively and efficiently eradicate illegal levies. The threat of criminal sanctions for corruption is stipulated in Article 12 letter E of Law No. 31 of 1999, which has been amended to Law No. 20 of 2001 concerning the Eradication of Corruption. It states that civil servants or state officials who, with the intention of benefiting themselves or others illegally, or by abusing their authority, force someone to give something, pay or receive payment with a discount, or to do something for themselves, are subject to imprisonment or a minimum of 4 years and a maximum of 20 years in prison, and a minimum fine of two hundred million rupiahs and a maximum of one billion rupiahs (Dewi, 2019).

According to Gustav Radbruch, there are three basic values of law, namely justice as a philosophical value, usefulness as a sociological value, and legal certainty as a juridical value. These values should serve as the basis for legal approaches to ensure order in society. In order to achieve the goal of law, it is necessary to prioritize the basic values that exist. According to Gustav Radbruch, the order of priority is legal justice, legal usefulness, and then legal certainty (Juryano & Sulistyawan, 2019).

Justice means acting fairly, impartially, without bias, and providing equal treatment to all parties involved. Utility means that the law should benefit the society that adheres to it. Legal certainty means that

the provisions or decisions made by judges are based on clear, consistent, and consequential rules, from subjective elements. Lawrence Meir Friedman's theory of legal behavior states that behavior is influenced by rules, decisions, orders, or laws issued by officials who have legal authority (Michalski, 2014). This legal behavior can be analogized to normative language, namely legal acts (*rechtshandeling*) and acts against the law (*onrechtmatige daad*). According to Donald Black, from a sociological perspective, law is not seen as rules that must be obeyed, but as tendencies that can be observed in the behavior of law enforcement officials or administrative officials (Salim, 2013).

Black explains that legal behavior is influenced by five factors, namely:

- a. Social stratification, which is the hierarchy in society influenced by social status.
- b. Social morphology, which is the horizontal differences in society.
- c. Culture or tradition, which is the symbolic aspect of society.
- d. Organization, which is the capacity for collective action.
- e. Other social controls, which include norms, ethics, and morals.

Ateng Syafrudin authority is defined as official power derived from laws, while authority is the "onderdeel" of authority. In the authority contained the authority to make government decisions, to carry out duties, to give authority and distribution of authority decided by law. Syafrudin (2000:22) Authority is also formulated as "Right to exercise powers; to implement and enforce laws; to exact obedience; to command; to judge. Control over; jurisdiction. Often synonymous with power". Cam (1978:121).

The authority of the government in state administrative law is limited by principles, namely 29 principle of speciality (*specialiteitsbeginsel*), the principle of legality (*wetmatigheid van bestuur*) and the General Principles of Good Government, often called AUPB, especially on the principle of not abusing authority. The General Principles of Good Government are regulated in Law No. 3 (2014) concerning State Administration, Article 10 Paragraph (1) letter e and its explanation. Require government agencies and/or officials not to use their authority for their own benefit or other interests that are not in accordance with the purpose of the authority. Authority must not be exceeded, not abused and/or not mixed up (Ramadhani, 2017).

With regard to the authority to carry out duties, if unscrupulous government officials have used their authority for their personal interests and benefits and carry out actions beyond the limits of authority stipulated in the law, then there has been an abuse of authority. One of the cases of abuse of authority in PTSL is the case of illegal levies in Cikupa Village, Cikupa District, Tangerang Regency, Banten. The suspects in this illegal levy (*pungli*) case are four people who are former Cikupa Village Office structuralists, namely suspects with the initials AM ex Village Head, SH ex Village Secretary, FI ex Kaur Planning and MSE ex Kaur Finance. An investigation into the case has been underway since January 2022. The suspects committed *pungli* in the period 2020-2021 amounting to 2 billion rupiah from 1,319 people. (Banten News.com, September 15, 2022).

The AM suspect in this illegal levy (*pungli*) case acted as the leader and three other suspects as aides. The modus operandi of this illegal levy is that the suspects are giving false levy fees by deliberately inflating the levy fees to residents or applicants for the PTSL program. The amount of this illegal levy is between Rp. 500,000 to Rp. 1,500,000,-. The details are that the land covering an area of 50 m2 with complete documents costs five hundred thousand rupiah. The land area of more than 50 m2 with complete documents costs one million rupiah. Furthermore, for a land area of more than 100 m2 whose documents are incomplete, the cost is 1.5 million rupiah. (TVone News.com, September 19, 2022). The money from this illegal levy was used as campaign funds for AM suspects who will run for village head again in 2021. The other suspects helped with the promise of being reappointed to the village by AM and for personal gain. (Tangerang News.com, October 19, 2022).

The actions of the village officials are not only burdensome for the residents of the community concerned which can indirectly hinder the achievement of established central government programs in order to provide legal certainty and legal protection for the community, especially matters of legal land tenure. The practice of illegal levies has also further deteriorated the image of government officials who in recent periods have been sought to be restored. Looking at this case, from the view of authority theory, it can be concluded that the officers who are currently suspects have abused the authority mandated by law to carry out mandated duties. Instead of carrying out their duties by helping to encourage the PTSL program to run quickly and smoothly, the suspects even used their authority for personal interests and had exceeded

the limits of existing authority by inflating the program registration fee to the people of Cikupa Village (Syamsuddin, 2020).

Another cause of the occurrence of levies in the PTSL program is caused by misinterpretation of the amount of fees charged to the community, minimal socialization carried out related to illegal levies by related officials, the lack of an active role of the community to work together to eradicate cases of illegal collection carried out, and the lack of public knowledge about the proper collection procedures for the PTSL program regulated in the law so as to open the opportunity for collection of fees. In addition, the addition of what is done by other parties is considered commonplace by the community concerned, this behavior can even further accelerate the case of illegal levies.

B. Steps that can be taken in dealing with acts of abuse of authority.

Steps that can be implemented to deal with acts of abuse of authority in the implementation of PTSL and other administrative sanctions must be applied to officials / officers who are proven to have committed violations, these administrative sanctions vary in nature according to the degree of violation committed. In this regard, administrative sanctions have also been applied by the Ministry of ATR / BPN to employees of the ATR / BPN ministry involved in land mafia operations as conveyed by the Minister of ATR / BPN Sofyan Dajilil (Minister for the period 27 July 2016 to 15 June 2022) since he took office there are 125 employees who have been given administrative sanctions, disrespectful dismissal, transfer to the police and removal from office. (Kompas.com, September 16, 2022) In addition, in the July 2022 period, the Ministry of ATR/BPN has also prepared sanctions for 6 employees involved in land mafia practices in Jakarta and Bekasi.

In addition to administrative sanctions, strict action is needed in the form of criminal sanctions to perpetrators who are proven to have committed crimes of abuse of authority, illegal levies, bribes, gratuities, fraud, embezzlement, forgery and other actions in accordance with the legislation. Criminal sanctions should be strict and harsh sanctions, in order to have a deterrent effect on the perpetrators so that they will not repeat similar things.

Criminal sanctions are imposed on perpetrators of abuse of illegal levy authority in the implementation of PTSL held in Cikupa Village, Cikupa District, Tangerang Regency, Banten Province. The perpetrators consisted of 4 people who were former structural members of the Cikupa Village Office, namely the former Village Head, the former Secretary, the former Planning Head and the former Finance Head were subject to Article 12 letter (e) of Law No. 31/1999 as amended into Law No. 20/2001 concerning the Eradication of Criminal Acts of Corruption juncto Article 55 paragraph 1 of the Criminal Code with a minimum sentence of four years and a maximum of twenty years and a fine of at least 200 million at most 1 Billion. (TVOne.com, September 19, 2022).

Based on data obtained from the National Police Headquarters land mafia task force in the 2021 period, 69 land mafia cases have been handled throughout Indonesia with a total of 61 suspected land mafia cases. 7 suspects have been detained, 23 have not been arrested, 2 suspects are still at large and 29 other suspects have been transferred to the Public Prosecutor (JPU). (CNNIndonesia.com, September 16, 2022). Furthermore, the Indonesian Prosecutor's Office has also investigated as many as 34 cases related to the land mafia throughout Indonesia in the period 2020 to 2022 with the total losses due to the land mafia case amounting to IDR 1,445,635,409,212,-. (Kumparan.com, 16 September 2022)

Various problems that occur can be addressed by increasing cooperation and collaboration between officials in charge of dealing with abuse of authority of the PTSL program and land mafia practices. In this regard, the government has formed a Land Mafia Prevention and Eradication Team (PPMT Team) from the Ministry of ATR / BPN, Polri and the Prosecutor's Office of the Republic of Indonesia which is based on a memorandum of understanding between the Ministry of ATR / BPN and the National Police of the Republic of Indonesia dated March 17, 2017 Number 3 / SKB / III / 2017 and number B / 26 / III / 2017 concerning cooperation in the field of Agrarian / Land and Spatial Planning. The purpose of establishing the PPMT team is to increase effectiveness and efficiency in handling agrarian / land crimes, preventing and eradicating the problem of illegal levies, preventing and eradicating land mafia. Especially related to the issue of eradicating illegal levies, an Integrated Team was formed at the Central, Provincial and / or Regency / City levels.

It is necessary to socialize and educate the public to play an active role, learn and understand the implementation of the PTSL program and its rules as a whole so that they are not lied to or deceived by officials to pay levy fees outside of the amount of retribution that has been determined according to the Joint Decree of the Three Ministers in Java and Bali, which is IDR 150,000,-. The active role of the

community is also very important to report if there are actions or attempted actions of the officers who carry out the levies, the community is also expected to play an active and critical role periodically and continuously check the progress of the status of the land registration process.

Local government support from the provincial, district or city level to ease or waive the Land and Building Acquisition Duty (BPHTB) so that people are encouraged to register their land in the PTSL program in the hope that the acceleration of this program will be easier and faster to achieve. As stated by the Minister of ATR/BPN Sofyan A. Djalil in the Socialization of the National Strategic Program for Complete Systematic Land Registration of ATR/BPN Kemetrian online on January 27, 2022. (BPN.co.id, September 16, 2022). The government is expected to continue to develop innovative acceleration programs and make it easier for people to register directly without the need for third parties in managing their land permits through existing strategic programs including the Touch My Land application service (Ali, 2009). Through this application, people can check files and land certificates without the need to attend directly to the BPN office. Moreover, there is also information on the terms of application and a simulation of the calculation of service fees. (atrbtn.go.id, September 20, 2022).

Coaching and developing the competence of the village apparatus which includes professional competence, moral competence and social competence through intense cooperation with higher education institutions as well as statements of religious figures to organize faith and piety through spiritual immersion in various forms of religious activities.

4. Conclusions

The modus operandi of illegal levies carried out by the suspects by providing false information related to levy fees that are not in accordance with the laws and regulations, the suspects inflated the levy fees to community residents who participated in the land registration program, the cost of which should be one hundred and fifty thousand was increased to five hundred thousand to one and a half million depending on the area of land and the completeness of land documents owned by the community. The suspects have abused authority for their personal interests. Suggestions so that there are no illegal levies in this land registration program, among others, need to establish public control by villagers on the implementation of the duties of the village apparatus by maximizing the role of the Village Consultative Body or BPD, Community Empowerment Institutions or LPM, and PKK. Assistance is needed by the academic community around the village to improve the professional competence, moral competence and social competence of villagers through various activities such as counseling, training, workshops and so on through collaboration with religious leaders in order to always find values and build motivation of community members to build a developed, skilled and virtuous community.

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