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YOGYAKARTA, 19-20 SEPTEMBER 2019

PROCEEDING

INTERNATIONAL SEMINAR

LAND AND SPATIAL PLANNING POLICE
FOR SUSTAINABLE DEVELOPMENT

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**PROCEEDING INTERNATIONAL SAMINAR
LAND AND SPATIAL PLANNING POLICE FOR SUSTAINABLE DEVELOPMENT**

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First Published

(October, 2019)

by:

National Land College

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Sleman, Yogyakarta, 55293

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In collaboration with

STPN Press

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Sleman, Yogyakarta, 55293

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Author : Binar Arco Gumilar, et al.

Editors: Proceeding Team

Layout dan Cover : Proceeding Team

National Library: Catalog in Publication

Proceeding International Seminar:

Land and Spatial Planning Police for Sustainable Development

National Land Collage, 2019

vii + 270 hlm.: 21.5 x 29.7 cm

ISBN: 602-7894-42-3

978-602-7894-42-3



STRATEGIC ASPECTS OF ESTABLISHING LAND BANKS IN LAND ACQUISITION FOR PUBLIC INTEREST IN INDONESIA

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Abstract

Currently, the government has a great responsibility in implementing various development programs that need land resources. These land resources are used for the development of housing and settlements, business and tourism, energy and food security, infrastructure, connectivity, maritime and other regional development. Limited land resources become the major problem in implementing this strategic program. The breakthrough effort can be used is the establishment of Land Banks. This research uses descriptive method and has carried out with a combination of literature studies with primary and secondary data collection. The location of the research was conducted at the Directorate General of Land Procurement of the Ministry of ATR / BPN, the Regional Land Office of Banten Province, and the Land Office of the City of South Tangerang. The results show that the Land Banks become a priority to be immediately implemented in Indonesia because the land acquisition process in Indonesia has experienced various obstacles. One inhibiting factor is that the government does not have a land reservation which can be used at any time for development purposes. The strategic aspect of the need for a Land Bank is the acceleration of land acquisition process. Land acquisition can run faster and more effectively as the Land Bank is an instrument to accommodate land that can later be utilized by the government to support the development. Another benefits of the existence of Land Banks are the government can acquire land before there is a need, Land Banks make it possible to provide land for the public interest with relatively cheap price, direct development patterns according to spatial planning, control land markets, prevent land speculation and make improvements in the framework of land development in rural and urban areas. Sources of Land that can become Land Banks assets are: state general reserved land, unutilized government asset land, arising land, former mining, land affected by spatial change or land consolidation policies, land releasing from forest areas, land from the direct procurement process, public procurement, or similar grants and donations.

Keywords: Strategic aspect; Land banks; Land acquisition

A. Introduction

1. Background

In the nation and state, the government has an obligation to guarantee the fulfillment of the basic rights of its citizens such as shelter, decent work, clothing, adequate food and adequate environment, so that the State is required to empower every inch of land within the territory of Republic of Indonesia. This condition must get serious attention due to the increasing number of population. Based on statistical data in 2017 Indonesia's population of 262 million with a growth rate of 1.49 percent, it means the Indonesian population increases by 4 million every year. On the other hand, the number of parcels of land is static but must be able to meet the basic needs of the population.

In addition to meet with the basic needs of citizens, the government also requires land to implement strategic / priority programs such as housing and settlements, business and tourism development, energy and food security, infrastructure, connectivity, maritime and

regional development. Land limitation is the main problem in achieving this strategic program. That problem needs a breakthrough effort with the need for the establishment of a Land Banks. This effort to overcome that problem must continue to be made because of many problems in land acquisition in the public interest, such as difficulties to acquire land and anticipating soaring land prices.

The institutional transformation of the land manager from the National Land Agency to the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency at the Joko Widodo Government Work Cabinet, has made the task and authority even greater. President Joko Widodo's vision and mission of food sovereignty and economic independence will be achieved by prioritizing agrarian reform programs, land acquisition and asset legalization.

At the beginning of the formation of ministry of Agrarian Affairs and Spatial Planning, the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency has stated that some of the focus of the ministry's work are handling land disputes, improving services to the community, establishing Land Banks, providing land for development and arranging the organizational structure of the ministry. The discourse of the establishment of a Land Banks continues to flow from 2014. In the Opening of the Indonesia Property Expo 2017 Exhibition at the Jakarta Convention Center, Friday, August 11, 2017, President of the Republic of Indonesia Joko Widodo has ordered each region to prepare a Land Banks to address the limited land. If the regions have a Land Banks, it will be easy for developers to build housing because the land is already available, as well as to anticipate land control by speculators or land mafias so that land prices become unreasonable.

Considering the importance of the Land Banks in Indonesia and its relation to land acquisition, land management and land development, it is necessary to study in more depth the need to immediately establish a Land Banks. Institutions, available land resources, required regulations of the establishment of Land Banks will have to be in accordance with the social conditions of the community, the needs of the government in carrying out development and the rules of land law that apply in Indonesia. Based on various things above, it is necessary to conduct research related to, "Strategic Aspects of Establishing a Land Banks in Land Acquisition in Indonesia."

2. Research Purposes

The purpose of this study can be formulated as follows:

- a. To find out the importance of the establishment of Land Banks in Indonesia.
- b. To find out the role of Land Banks in supporting Land Acquisition activities in Indonesia.
- c. To inventory the potential reserves of land resources in Land Banks.

B. Literature Review

1. Definition of Land Banks

Land Banks as stated in the book "the best practice Land Banks" is an institution formed to promote the revitalization (revive) the environment of property, especially for the restructuring of ownership and use, housing and settlements in urban areas, in addition to some development that leads to an industrial / commercial application of Land Banks authority.

Based on the literature approach, the definition and activities of Land Banks can be in the form of:

- a. Land Banks in the context of the public sector as a government strategy to deal with urban renewal, preserve open space and stabilize the value of owned land in certain areas;
- b. Technically, a Land Banks is a practice of land acquisition / acquisition with the intention of developing / maturing in order to meet future development needs;
- c. Land Banks is a concept related to accessing land for the provision of public services for housing, industry, agriculture, with land management, directing land markets and preventing land speculation.

Maria Sumardjono (2008), stated that in general Land Banks institution is intended as any government activity to provide land, which will be allocated for later use. It can also be seen from its function, Land Banks institutions can be divided into two categories, namely: general Land Banks institutions (general Land Banking) and special Land Banks institutions (special or Land Banking projects)

According to Ranitya Ganindha (2015), Land Banks is one of the important resource management tools to increase the productivity of land use. The method used in Land Banks is market control and stabilization of local market land. Land Banks guarantees the availability of land for various development needs in the future, the efficiency of the Regional and state budget (APBN / APBD), reducing conflicts in the process of land acquisition and reducing the adverse effects of land liberalization. Land Banks management is related to how to planning, organizing, implementing and supervising of Land Banks activities in realizing the objectives of Land Banks. Supported by adequate regulations and strong institutions, Land Banks management can finally realize the six functions of Land Banks, namely land keepers; as a land warrantee; as a controller of land acquisition; as a land manager; as a land appraisal; and as a land distributor. The concept of Land Banks activities must contain policies and strategies for optimizing the use of land.

To further provide clarity, the description of Land Bankss can be compared with conventional banks in general, as follows:

2. The Basic Principles and Purposes of Establishing Land Banks

The basic principles of establishing a Land Banks are as follows:

- a. the executor of Land Banks activity in urban area is directed as an effort to empower land as the wealth of the Indonesian people for the achievement of people's welfare. This means that land which is an asset of the nation must be used as fairly and optimally as possible in order to achieve the common goal of improving overall community welfare.
- b. In the effort of creating a land agency, the role of the government is necessary, formally it has become legal that the authority of the government is to regulate and carry out the designation, use and supply of land and maintenance of land.
- c. Land Banks institutions can guarantee the availability of land by increasing the usability and effectiveness in land use, and considering the physical condition of the land, as well as the balance of land distribution ratio by aligning the interests of individuals, communities, government and private sector and always paying attention to the social function of the land in the context of sustainable urban development.
- d. Land Banks activities can achieve optimal land use and are able to improve the welfare of landowners, by actively involve landowners in the management of Land Banks institutions.

The establishment of a Land Banks is one of the alternatives to accelerate land acquisition for public purposes, it has the following objectives:

- a. Ensure the realization of the objectives formulated in Article 33 paragraph (3) of the 1945 Constitution, namely that the earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people, the realization of which is national development that is sustainable, fair, and equitable for the interests common people;
- b. As an instrument for implementing various land policies and supporting regional development efficiently and effectively;
- c. Control the procurement, utilization of land fairly in order to carry out development.

In addition, the specific objectives of Land Banks are:

- a. Provide ready land to build both physically and administratively, i.e. land for sale has been completed with a certificate of land rights;
- b. Providing land for various purposes, especially residential development sites for the middle class and below, able to control land prices and eradicate land speculation;

3. Land Acquisition for Development of The Public Interest

According to Maria Sumardjono (2008), as is known, the main objective of land policy is the provision of land needed for development in the right location, at the right time, and at a reasonable price. To control the price of land is one of the tasks in the context of implementing land policy, the government can intervene through various means / techniques, such as:

- a. land acquisition;
- b. land use regulation / regulation;
- c. provision, maturation and distribution of land through Land Banks institutions; and
- d. taxation policy.

According to Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest, it is stated that land acquisition is an activity of providing land by providing appropriate and fair compensation to the rightful parties. The objects of land acquisition are land, upper and under ground spaces, buildings, plants, objects related to land, or others that can be valued. While the public interest is the interest of the nation, state and society that must be realized by the government and used as much as possible for the prosperity of the people.

The aspect of land acquisition is an important thing that makes the Land Banks as a solution for the provision of land for development in the public interest. The problem of the difficulty of finding land, compensation, and large financing in land acquisition further reinforces the need to establish a Land Banks in Indonesia.

4. *Land Reverse of Land Banks*

According to Maria Sumardjono (2008), Land Banks institutions can acquire land through buying and selling, land acquisition / revocation of land rights, and other means, such as exchange or acquisition through or as a result of land abandonment. Related to the discourse of public Land Banks institutions and special Land Banks, alternative land acquisition for the State of Indonesia can be explained as follows:

- a. With respect to special Land Banks activities, land acquisition can be carried out in two ways, namely the acquisition / revocation of land rights and sale and purchase
- b. With regard to the activities of public Land Banks institutions which are according to their nature, their use cannot be determined at the time of the acquisition process, so the acquisition should be carried out by buying and selling
- c. It was further conveyed that; the object of a Land Banks institution was State land or right land. State land may include, among other things, ex-erfpacht land rights, ex-private land, non-renewable land use rights, and abandoned lands, etc.

C. *Conceptual and Theoretical Framework*

Limited land in meeting human needs, in the context of the state can be broken down into two problems, namely the fulfillment of basic needs for citizens and the fulfillment of government obligations in meeting the needs of citizens through development programs in all fields. Much of the success of the development carried out by the government is related to the land acquisition process. Issues of land acquisition for public use, such as the difficulty

of finding available land, the complexity of the process of compensation to uncontrolled land prices makes the effort to establish a Land Banks a priority.

The scheme for the establishment of a Land Banks with all its rights, obligations and authorities in its management must be supported by the existence of land sources that potentially become objects of the Land Banks. The next management mechanism related to the procedure for its acquisition, utilization and release needs to be elaborated in greater depth in view of the availability of legislation supporting the establishment of the Land Banks. Searching for these land resources needs to be carried out at the level of district, provincial and related agencies such as the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency, Directorate General of State Assets of the Ministry of Finance, to support the success of the establishment of the Land Banks.

D. Research Method

1. Research Approach

The research approach used is descriptive method. The main purpose with this method is to describe the nature of a state that is temporarily running at the time of the study, and examine the causes of a particular symptom. According to Consuelo G. Sevilla (2006), descriptive research method as an activity which includes collecting data in order to test hypotheses or answer questions regarding the situation at the time that is running from the subject of a study. In the implementation of this research approach is carried out with a combination of literature studies with primary and secondary data collection. The formulation of concepts, theories and management of Land Bankss uses literature that is relevant to matters relating to the establishment of Land Bankss and their problems in Indonesia. Primary data collection is done by survey method and interviewing some people as policy makers related to Land Bankss. Secondary data collection is more emphasized on the need related to the potential of the reserve and distribution of Land Banks objects at the district and provincial levels as a support for the establishment of a Land Banks.

With this approach, it is expected that researchers will obtain research results in the form of literature analysis, analysis of interview results and reinforced with field data about the potential of Land Banks object reserves in certain locations, so we get a conclusion that illustrates the urgency of the establishment of a Land Banks.

2. Research Location

The research was conducted at the Directorate General of Land Procurement of the Ministry of ATR / BPN, the Regional Land Office of Banten Province, and the Land Office of the City of South Tangerang.

3. Types and Sources of Data

Data sources of this research are reference books, journals and scientific publications related to the Land Banks, informants and documents from relevant agencies. The type of

data obtained in this study is in the form of information processed from primary data and secondary data. Primary data is qualitative data obtained from the results of in-depth interviews with informants, while secondary data is data taken from related agencies by means of data documentation.

Primary data taken in this study are data from direct interviews with informants, including in the form of:

- a. Knowledge of theories, concepts, urgency of the need to establish a Land Banks in Indonesia;
- b. Discourse on management and regulation of the existence of the Land Banks.
- c. Carrying capacity related to the existence and all potential reserves of Land Banks objects;

While secondary data taken in this study are data that are in the Land Office of South Tangerang City and Regional Land Office of Banten Province, in the form of:

- a. Data on Distribution of Abandoned Land in Banten Province;
- b. Land acquisition documents for development for public use in Banten Province;
- c. Data on lands that can become reserves for Land Banks objects including their distribution in Banten Province.

4. *Data Analysis Techniques*

The steps of data analysis in this research are generally carried out as follows:

- a. Observation and study of relevant libraries that are directed to answer the research objectives.
- b. Careful data collection and tracking related to the research objectives of the informants.
- c. Recapitulation and analysis of secondary data related to the distribution, amount and extent, in the analysis of Land Banks object reserves.
- d. Analyzing data and information thoroughly to get a clear picture of the urgency and existence of a Land Banks.
- e. Drawing conclusions.

This research is a qualitative research by collecting secondary data by searching literature or desk study combined with primary data obtained through interviews (field study)

E. *Result and Discussion*

1. *Problems with the Process of Land Acquisition for Development Purposes*

The conventional land acquisition process has a problem because of the long time to start construction, this is because the government does not have land reserves that can be used to start the development process as soon as possible. The complicated process of land acquisition causes the development process to take a long time. With the existence of the

Land Banks, it is expected that an accelerated land acquisition process for development will occur because potential land is already available through a Land Banks mechanism.

Land acquisition includes several procedures that take time and energy involving cross-sectoral institutions. In the land acquisition process there are at least 3 stages in the land acquisition process, namely planning, preparation and implementation. In Banten Province these stages are as regulated in Banten Province Governor Regulation No. 93 of 2014 concerning the Implementation Guidelines for the Preparation of Land Procurement Stages for Development in the Public Interest in Banten Province, which can be explained as follows:

a. Planning stages

In making planning documents process, agencies that require land make coordination and asking for assistance from relevant agencies or professionals in finding data on land area, location and land status include:

- 1) determining the coordinates of land acquisition objects
- 2) estimating number of fields
- 3) status of land registered in the object
- 4) surface area

This activity is funded by agencies that need land.

b. Stages of Preparation

After the planning document is received by the Governor, it is marked by proof of receipt given to the agency that requires the land. Furthermore, within 10 days the Governor formed a Preparation Team and Secretariat.

During the preparatory stage, the notification of development plans is also carried out to the rightful parties and affected parties (socialization). In practice in Banten Province, notification of the development plan can be carried out several times, it can be day or night at an agreed place in accordance with the culture of the local community plus an announcement in the local newspaper.

At this stage the Preliminary Data Collection is also carried out by the Preparation Team within 30 working days of the notification period of the development plan. The Initial Data Collection Product is a temporary List / data of objects and subjects in the location of the development plan signed by the Chairperson of the Preparatory Team.

Public Consultation is carried out after the initial data collection, at the time of this public consultation the right party must have asked how much compensation and even asked and or asked for planning documents to open the compensation budget stated in the planning document. At the public consultation stage, the purpose and objectives of the development plan are conveyed by the agency requiring land, the stages and time of the process of carrying out the land acquisition are conveyed by the Provincial Government, the role of the appraiser, tax incentives, objects assessed for compensation and forms of

compensation delivered by the BPN, while concerning rights and the obligation is conveyed by the regional office of ministry of law and human rights.

Public Consultation is followed by repeated public consultation with the aim of inviting the opposing parties and if necessary, door to door. The agreement and / or disagreement over the location of the development plan is stated in the Minutes along with the reasons signed by the parties and the Preparation Team.

c. Implementation Stages

The stages of implementation include 11 sub-activities, namely:

- 1) Preparation of implementation
- 2) Inventory and Identification
- 3) Announcement
- 4) Verification of Field Maps and Nominative Lists
- 5) Procurement of Land Assessment
- 6) Estimated compensation
- 7) Notification of Amount of Indemnity and Deliberation on Form of Indemnity
- 8) Validation
- 9) Payment of Compensation and Waiver
- 10) Depositing compensation money to the Court
- 11) Submission of Results

Besides the many stages that must be passed in the land acquisition process, there are several obstacles that accompany the land acquisition process including:

a. Number of public facilities whose unclear land status;

Many social facilities and public facilities are still unclear so it is difficult to determining the subject of compensation recipients.

b. Land of Government Agencies both Central and Regional Government;

Many lands of central government and regional government agencies have not been properly inventoried while in the field, the land parcels of government assets have been occupied by the community.

c. Waqf land;

The unclear status of waqf land also causes difficulties in the process of compensation due to the fact that many waqf land has not been registered so that conflict can occur.

d. Objection to compensation assessment;

Even though the compensation assessment process has been carried out by an independent appraisal body, there are still some parties that have objected to the amount of compensation.

e. There is occupation on the State land whose status is unclear;

State land is land that is not clung to private rights on it, for example ex-use land right that has not been extended but in reality many people work on the land while the legal process is still ongoing.

f. There is land that remains unpaid;

Remaining land for land acquisition that is not possible to be managed productively because of limited access or very minimal area to be managed cannot be paid for compensation

g. There are lands whose owners are difficult to identify;

The number of registered land parcels that is still insufficient cause difficulties in identification of landowners.

h. There is a Sacred Grave;

Trust and social conditions for something that is considered sacred sometimes make it difficult in the process of land acquisition, especially if the location of the land that will be the object of development through or using places that are sacred.

i. Village roads whose land status is unclear;

There are village roads whose status is unclear because as is the custom of village communities in Indonesia in general, roads for villagers' access are the result of local community social agreements, but with the value of compensation that will be accepted the agreement is no longer obeyed by individuals who feel entitled to receive compensation.

j. Forestry Land;

The existence of individual control over land over a forest area results in the compensation process being not simple. On one side, the forest area is an area designated for forest preservation on the other hand the area inhabited is controlled and cultivated not according to its designation. The inhabitants feel that they are entitled to receive compensation, but the status of the land which is a forest area has the consequence that the land can be used in addition to its designation after there is a decree to release the forest area.

k. There was a change in progress in the middle of the implementation.

The land acquisition process sometimes occurs dynamics adapted to field conditions, for example there is a change in the toll road in the development process while the land acquisition process is already in progress.

Starting from the obstacles and constraints above the land acquisition process experienced major obstacles in the process of determining compensation recipients because of the multiple interpretations of regulations so that field implementers had difficulty determining who is entitled to the compensation. This is also due to the minimal number of registered fields, so that the recipient of the compensation must be explored carefully and thoroughly to avoid problems later on.

These obstacles and problems caused the land acquisition process to be delayed and deviated from the planning and time in the Standard Operating Procedure (SOP) resulting in cost overruns.

An example of the 2017 Land Acquisition progress in the typical small scale public land acquisition in South Tangerang is presented in the following table:

Tabel 2. Small Scale Land Acquisition Progress in South Tangerang City Period 1 January to 31 December 2017

NO	Segment	Location	Parcels					Note	
			Number of Parcel	Area (M ²)	Parcel that have been paid/granted	Area (M ²)	Residual Land Parcels		Area (M ²)
A BASIC INFRASTRUCTURE ACTIVITIES									
1	Fly Over Gaplek	Kelurahan Pondok Cabe Udik & Pamulang Timur Kec. Pamulang, Kel. Ciputat dan Cipayang Kec. Ciputat	19	3,151	19	3,151	0	0	Finish
2	Tandon - Pertanian Terpadu Street	Kel. Ciater Kec. Serpong	3	1,241	3	1,241	0	0	Finish
3	Bhayangkara Street	Kel. Paku Jaya Kec. Serpong Utara	-	-	-	-	-	-	Surveying and Mapping, Planning Phase
4	Sport Field	Kel. Pamulang Barat Kec. Pamulang	54	7,850	32	4,119	22	3,731	Stage VI prices have been submitted and in the process of filing for payment
5	TPA/TPST Cipeucang	Kel. Kademangan Kec. Setu dan Kel. Serpong Kec. Serpong	16	22,097	13	20,307	3	1,790	Placement (location determination) has been carried out and is currently in the stage of identification and inventory
Total			92	34,339	67	28,818	25	5,521	0
B BASIC NON-INFRASTRUCTURE ACTIVITIES									
1	Integrated Agricultural Region	Kel. Ciater Kec. Serpong	7	2,230	6	1,922	1	308	In the process of submitting BSD PSU to the City Government
2	SDN Ciledug Barat	Kel. Benda Baru Kec. Pamulang	1	1,020	1	1,020	-	-	Finish
3	Gedung Kantor Pemerintahan Tahap I	Kel. Serua Kec. Ciputat dan Kel. Pondok Benda Kec. Pamulang	89	39,177	34	6,086	55	33,091	In the process of payment for compensation

NO	Segment	Location	Parcels						Note
			Number of Parcel	Area (M ²)	Parcel that have been paid/granted	Area (M ²)	Residual Land Parcels	Area (M ²)	
4	SMPN	Kec. Ciputat	-	-	-	-	-	-	In the process of clarifying ownership documents and awaiting a study of location determination from the Office of Education and Culture
5	Pasar Ciputat	Kec. Ciputat	-	-	-	-	-	-	Preparation of land acquisition planning documents
TOTAL			97	42,427	41	9,028	56	33,399	
TOTAL A+B			189	76,766	108	37,846	81	38,920	

Source: Land Office City of South Tangerang 2018

2. *Legal Foundation of the Establishment of the National Land Banks Management Agency*

The existing legislation has actually mandated the establishment of a Tanah bank. These regulations include:

Based on the constitution articles 4 and 33 paragraph 3 the lives of the people are controlled by the state. Land as stated in the previous explanation is the livelihood of many people because land management is related to the regulation of community welfare in this case the state needs to regulate its management and use.

The Basic Agrarian Law (UUPA) of 1960 in article 2 mandates the existence of a Land Authority Agency which can be interpreted as the need to establish a body that manages state land, while in article 6 it mandates the existence of social functions over land.

Law No. 2 of 2012 concerning land acquisition in the public interest contains a definition of the land acquisition agency for the implementation of development in the public interest, and this is a necessity in accelerating the development process.

Law No. 17/2007 concerning RPJP 2005-2025 also pertains to the establishment of a land management body mandated in Presidential Decree No. 2/2015 on the 2015-2019 RPJMN which mandates the government to form a Land Banks before 2019.

3. *The Importance of Land Banks in Indonesia*

The concept of the Land Banks has been developing for quite a long time in developed countries in the Americas and Europe. Urban planners in these countries suggest that the city government take vacant land on the outskirts of the city for planning long-term use and control the condition of the city that is not organized.

Land Banks is a government agency / agency that carries out integrated land management, including planning, acquisition, development, construction, construction, use, utilization, as well as security and maintenance. The purpose of the establishment of the agency is to ensure the availability of land for development, the economy, and the public interest as an instrument of controlling land prices, maintaining the balance of land tenure, and managing state public reserve land (TCUN)

4. *Land Banks and Land Procurement Processes in Indonesia*

One of the benefits of a Land Banks is to support the implementation of land acquisition in the public interest. It is expected that with the existence of the Land Banks, the land acquisition process for public interest can run faster and more effectively. The acceleration was due to the Land Banks being an instrument that accommodates land which would later be used by the government to support development.

5. *Land Banks Organization Structure*

In the proposal of the organizer and the management of the Land Banks in Indonesia by the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency that the organizing organ of the National Land Banks (BATANAS) consists of the Land Banks Committee, the Supervisory Board and the Implementing Board. The Land Banks Committee is established by the President and the Chairperson of the Committee is held by the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency, while the members consist of the Minister of Finance, the Minister of Public Works and Public Housing (PUPR) and can be added by other relevant ministers. The Land Banks Committee has the authority to determine the Board of Trustees and the Executive Board. Considering the strategic main tasks and functions of BATANAS, it is necessary to have a structure of the Land Banks Implementation Board that is able to accommodate asset management, planning and development, land use and financial fields as the carrying capacity of carrying out the tasks. Bearing this in mind the Supervisory Board consists of the Head of BATANAS and several Deputy and Internal Supervisory Units.

Understanding the Strategic aspects of BATANAS in national development as an effort to increase economic growth and social welfare for all Indonesian people, it is deemed necessary that BATANAS is domiciled in the Capital City and has regional representation in the Republic of Indonesia.

6. *Authority, Rights and Obligations of BATANAS*

The authority, rights and obligations of BATANAS can be described as follows:

a. *BATANAS Authority*

- 1) As the main operator of land collectors and managers in Indonesia;
- 2) Bodies that have independent authority regulated in a Presidential Regulation;
- 3) Can participate in making spatial planning;

- 4) Can develop land use with third parties;
- 5) Can be appointed as land manager of government-owned land or other parties;
- 6) Can invest and form an Independent Business Unit.

b. BATANAS Rights

- 1) Can own land with HPL status and can be utilized by placing HGB, HGU and Use Rights on top of the HPL;
- 2) Can obtain funding sources from the APBN;
- 3) As a government agency / agency, it may not be subject to land acquisition and ownership tax (BPHTB and PBB) before being used by third parties;
- 4) Can acquire land through the establishment of the authority of the Ministry of Agrarian Affairs and Spatial Planning / BPN from a valid source;
- 5) Can obtain revenues and profits that are managed directly by the agency

c. BATANAS Obligations

- 1) Providing land for development programs and public interests;
- 2) Conducting land planning and development to increase productivity;
- 3) Maintain land use in accordance with spatial planning;
- 4) Maintaining land price stability to support the public interest and low-income people (MBR);
- 5) Facilitating the business world in making investments by providing land more efficiently and effectively.

7. National Strategic Program

The need for land in government programs through national strategic projects will increase every year. The role of the Land Banks as a provider and manager of land will be increasingly felt and the potential of the Land Banks to take part in facilitating the development process will be increasingly needed going forward. Current national strategic programs include the development of Special Economic Zones, Infrastructure Projects, Development Projects and Transportation Center Construction. In more detailed types of activities include;

- a. Special Economic Zones; including the construction of 11 special economic zones and 17 industrial development zones. For example KEK Bitung, North Sulawesi Province which will have an area of 92.96 Ha and will focus on industrial and logistical activities.
- b. Infrastructure Projects; covering 69 toll road infrastructure projects and 5 non-toll road infrastructure projects. For example, the Probolinggo-Banyuwangi Toll Road with a length of 156 Km is estimated to require a land area of 1,325 Ha.
- c. Development Projects; covering the construction of 60 dams, 8 drinking water projects and 3 one million housing projects. For example, the construction of 12 apartment units in Pasuruhan Regency which requires an area of 1,630.05 m².

- d. Construction of Transportation Centers; including 22 railroad infrastructure projects, 7 airport projects and 10 port projects. For example Patimban Harbor in West Java Province requires at least 360 hectares of land.

8. *Potential Resource of National Land Banks*

The ATR / BPN Ministry as the institution that forms the Land Banks, has a potential land source. Due to the absence of a land manager function, the potential of this land to become abandoned land, so that it is necessary to accelerate the formation of a Land Banks so that abandoned land can be optimized for development.

Sources of Land Objects that can become Land Banks assets are as follows:

- a. State General Reserve Land (TCUN)
- b. Land assets of the government that have not yet been utilized
- c. Land arises, grows, or ex-mining
- d. Land affected by spatial change policies or land consolidation
- e. Land release of forest area
- f. Land from the direct procurement process, public procurement, or similar grants and donations
- g. Land that is the State General Reserves can be obtained from abandoned land, erpacht land, absentee land and maximum excess land.

Table 3. Land Resources for Land Banks

No	Land Resources	Right Types	Mechanism of Acquisition
1.	Abandoned Land	Cultivation Right (HGU), Building Right (HGB), Customary Right (Tanah Ulayat)	Acquisition/buying and selling
2.	Government Land	HGB	Acquisition/buying and selling
3.	HGU Land	HGU	Acquisition/buying and selling
4.	Absentee land	Ownership Right (Hak Milik)	Acquisition/buying and selling
5.	Public Facility	Management Right (HPL) of Developer	Grant
6.	State/ Regional Owned Enterprise (BUMN / BUMD) land	HGU, HGB	Acquisition/swap
7.	Confiscated Land	BPPN Asset, bank confiscation, Court Decision	Revocation, purchase from KPNKL

Source: Bernhard Limbong, 2013

In practice, Land Banks have a number of problems related to operational financing, especially related to the availability of funds at the beginning of the formation, how to balance the objectives and financial resources and the needs of large-scale funding resources, so that

the effectiveness of Land Banks operations depends on stable and sustainable sources of funds.

With the existence of a state Land Banks that can acquire land before the need arises, Land Banks make it possible to provide land for the public interest relatively cheaply, direct development patterns according to spatial planning, control land markets, prevent land speculation and make improvements in the context of rural and urban land development.

9. *Potential Constraint of Implementing Land Banks in Indonesia*

Although the Land Banks is an institution whose existence is needed in Indonesia, its operations will encounter various obstacles that need to be considered together how to eliminate or reduce these obstacles. The main obstacles for implementing a Land Banks in Indonesia are:

a. Land Administration in Indonesia is still weak

As we all know, the number of registered and mapped plots in Indonesia is still very minimal. It is important that we look closely at establishing a Land Banks in Indonesia. If we do not know for sure who owns the land and where the land it owns as the primary purpose of the cadastre, then the process of acquiring land assets anywhere will be a big problem. Completeness of the land administration system is an absolute requirement in land acquisition. At present the number of registered and mapped lands in Indonesia is still below 50% and is being pursued in terms of quantity and quality through the Systematic Complete Land Registration (PTSL) program. However, obstacles in the field in the process of determining who is entitled to the parcels of land are still matters that need to be considered together. The complexity of the tenure system based on local customs and habits makes the land registration system in Indonesia not simple. The process of juridical verification of landowners to determine who is entitled to a parcel of land often takes a long time and sometimes results in endless conflicts and disputes. For this reason, it is necessary to consider the process of simplifying land registration that provides security guarantees for implementing land administration duties but also protecting the civil rights of landowners.

b. The Availability of state general reserve land (TCUN) has not been detected optimally.

The weak and complex land administration and tenure administration also make it difficult to detect the country's common reserve lands. As an example of the termination of the right to use the business, the ex- HGU land does not automatically become state land due to constrained priority rights, the debate over the right seems endless, so it does not provide legal certainty. The granting of land status is also a problem because its determination is not simple, because it must go through a complicated and time-consuming civil court process and the incompleteness of our land administration system to detect where there is neglected land as well as a simple mechanism for determining which parcels of land to be abandoned or not. Likewise absentee land, so far absentee land has not or less become the main topic in

agrarian reform efforts. In fact many parties, people or business entities, control the sale and purchase of agricultural lands by carrying out legal smuggling. Because it is not a priority to control and neglect, the presence of absentee land is becoming more widespread and the impact is the issues of inequality in land tenure and the massive conversion of agricultural land to non-agricultural land. The three examples above are actually the result of the incompleteness and disorder of land administration in Indonesia.

c. Aspects of spatial planning

The discrepancy between spatial planning and development has become an issue that is often discussed. Development should be preceded by spatial planning. And spatial planning should be realized with a detailed map of the desired spatial planning concept. It is often the case that development has not been preceded by detailed infrastructure mapping or plotting so that it often results in environmental disasters as well as the non-optimal use of infrastructure that has already been built.

The Land Banks as an institution providing land for development acceleration will experience obstacles in carrying out its duties if the existing spatial component does not make significant improvements.

F. Conclusions and Recommendations

1. Conclusion

- a. Land Banks is a priority to be implemented immediately in Indonesia because all this time the land acquisition process in Indonesia has experienced various obstacles. One inhibiting factor is that the government does not have land reserves which can be used at any time for development purposes.
- b. Strategic aspects of the need for a Land Banks in the land acquisition process in the public interest is the implementation can run faster and more effectively. The acceleration was due to the Land Banks being an instrument that accommodates land which would later be used by the government to support development. Another important aspect with the existence of Land Banks is that the government can acquire land before there is a need, Land Bankss make it possible to provide land for the public interest relatively cheaply, direct development patterns according to spatial planning, control land markets, prevent land speculation and make improvements in the framework of land development rural and urban areas.
- c. Sources of Land Objects that can become Land Banks assets are as follows: State General Reserve Land (TCUN), Unused government asset land, arising land, growing, or former mining, land affected by spatial change policy or land consolidation, Land from the release of forest area, Land from the direct procurement process, public interest procurement, or similar grants and donations.

2. **Recommendation**

- a. Discussion on Land Procurement in Land Bankss is only limited to the description of land needs for development in the public interest, a broader discussion is needed to strengthen the process of the importance of establishing a Land Banks.
- b. Need more in-depth study related to the process of transferring land rights to land which has the potential to become a source of reserves for the Land Banks.

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