Land Conflict Management as an Effort to Secure Serang Regency Government Assets

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Abstract

This paper aims to analyze the management of land conflicts that occurred in the assets of the Serang Regency Government as a form of securing their assets. The problem is focused on efforts to solve land disputes or conflicts and the asset security strategies that were carried out. To approach this problem, Fisher’s theory of conflict management and Siregar’s asset management theory were used. Data were collected through interviews, observation, and literature study and analyzed descriptively qualitatively. This study shows that land asset conflicts occur predominantly between individuals and the Serang Regency Government regarding land grants given for the use of public facilities such as education and health, however without being accompanied by official documents. Settlement of land disputes was carried out through a compromise approach and reaches the court level if no common solution was found. Dispute resolution aims to administratively complete land ownership documents. Physically avoiding illegal land use and legal security related to dispute resolution through the courts to determine the legal ownership of disputed land assets. It can be concluded that Serang Regency Government must fix all land disputes that occur so that the land assets owned can be maximized and do not disturb the socio-political stability in the society.

Keywords: Conflict Management; Land; Assets Security


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INTRODUCTION

The land is the heart of the economic life of cultural and spiritual beliefs and the sense of identity and social ownership of individuals and groups (Sillitoe, 1999; Gina & Goergina 2000). OECD (2004) in Daegon & Otgonbold (2012) states that land is the most valuable treasure for any nation. Land symbolizes the form of wealth and the main source of political and economic power as well as the most valuable natural resource for the country. Therefore, throughout human history, there have always been conflicts over land and conflicts that have an impact on economic, social, regional, and environmental development. Based on Wehrmann (2008) land conflicts occur when there is an opportunity to obtain land for free, regardless of whether the land belongs to the state or belongs to someone else.

Land conflicts occur in almost all countries in the world. Mongolia has experienced land conflicts since the land privatization law (Daegon & Otgonbold, 2012). In South Africa, especially in the Hammsankraal region, mutual land claims between tribes occurred after the end of apartheid politics (Sarah Godsell 2013). In Indonesia, the first land dispute was related to the problem of a poor land administration system. The second problem relates to obstacles in regulating the timeframe for implementation. (Bappenas 2012). Related land administration, is related to the negative publicity system with positive tension. (Bappenas 2016).

Tribunnews in May 2012 reported on areas in Indonesia where land disputes occurred, such as in Mesuji (Lampung) and Blitar. Overall, the number of land disputes that occurred in Indonesia in 2011 reached 14,337 cases. Kompas.com also reported that 5 provinces with the highest cases of disputed custody in Indonesia, where Riau Province was in first place with 29 cases, the second position was Jami Province with 21 cases. North Sumatra Province was in the third position with 19 cases. In this case, the conflict was dominated by PT Perkebunan Nusantara, private plantations, and also conflicts with the community. South Sumatra Province has 17 cases and is in fourth place, the last is East Nusa Tenggara Province with 16 land dispute cases. https://www.kompas.com/properti/read/2021/01/06/183000221/ini-5-provinsi-dengan-case-sengketa-tanah-tertinggi-di-indonesia.)

The results of research by Sadad (2016) strengthen the picture of land conflicts in Riau Province, especially in Pelalawan Regency, Riau Province. Most of the conflicts that occur are natural resource conflicts. It is due to the Government’s policy of arbitrarily granting permits and concessions to companies operating in extractive sectors such as plantations and large-scale mining, opening new oil palm plantations on lands claimed by the community as customary land, or by converting forests.

Based on Law Number 5 of 1960 concerning Agrarian Principles article 4 paragraph 1, the land is the surface of the earth or in other words, is the skin of the earth. The definition of land can also be interpreted as the earth’s surface or the earth’s layer above one. The National Land Agency groups land cases into eight categories, namely (1) land tenure and ownership; (2) determination of land rights and registration; (3) boundary or location of land parcels; (4) land reform object; (6) claim for compensation for particulate land; (7) ulayat/customary land and (8) implementation of court decisions (Bappenas, 2012). If you look at the subject or parties who have problems in land disputes, they consist of community disputes with the community (Investors), the community with government agencies, and between government agencies.

Nationally, land cases involving the community and government agencies
accounted for 26.6% of all cases recorded at BPN before 2007. This number is divided into the following typologies:

Cases between the community (collectively) and government agencies by 8.2%

a. Cases between communities (individuals) and government agencies (13.5%)

b. Cases between legal entities and government agencies 4.9%

Disputes between the community and entrepreneurs/investors occurred in Karawang between farmers and corporate property (Faddilla & Rudi, 2019). The conflict between Muara Dilam’s people and PT Citra Sardela Abadi in 2012 (Widiani, 2016). The conflict between the government and the company occurred in Cilegon City in the struggle for land use rights between PT Krakatau Steel and the Cilegon City government on Kubangsari land (Diniarizky, 2015). Land polemics also occur on ulayat/customary lands (Aura, 2021) stating that the dilemma of ulayat/customary land management is due to the dualism of the policies used, namely national land policies and customary law policies.

In governance, both central and regional, the land is one type of fixed asset where the procurement of these assets can come from purchases using regional income and expenditure budgets, grants, or other acquisitions by statutory provisions. The existence of fixed assets in the form of land, buildings, buildings, roads, irrigation, and networks as well as construction in progress greatly affects the value of regional fixed assets because the value of these assets is the largest compared to other accounts in the regional financial statements. (Maranata S 2020). Other forms of assets can be removed/abolished, however, it is difficult to do so with land assets. Improving asset management is the main key to preventing state losses from getting bigger. One of the points prone to corruption and potential conflicts that arise is the issue of land assets. When land and buildings owned by the government/local government are not certified, it will encourage many parties/people in various ways to claim ownership of the land. Mutual claims of ownership of land then give rise to disputes, conflicts, and even land cases, so that they can disrupt socio-economic and political stability in an area/region. Therefore, asset management is a series of activities from regional financial management, conflicts and even land matters, so that they can disrupt socio-economic and political stability in an area/region. Therefore, asset management is a series of activities from regional financial management. Conflicts and even land matters, so that they can disrupt socio-economic and political stability in an area/region. Therefore, asset management is a series of activities from regional financial management.

Serang Regency Government is experiencing problems related to asset management due to limited human resources for asset managers, a system that is not well organized, and the lack of strong commitment from the regional head as the full person in charge of land asset problems. As the background of the age of Serang Regency Government which is almost 500 years old, asset management, especially land assets is still chaotic. A cross-land dispute occurred in Serang Regency. Mutual claims of land/land ownership occurred above the school building between the community/heirs and Serang Regency Government, and between the company and Serang Regency Government regarding customary/ulayat lands also occurred. In the case of the sealing of the SMPN 1 Mancak building by the heirs, the company claimed the land as a company asset where the school building stands in Cikande, seizure of land use rights on ulayat/customary land between two companies, and the government in Bojonegara.
The sociological point of view based on Rubin (1994) cited by (Daegeon & Otgonbold, 2012) defines conflict as a social fact in which at least two parties are involved and whose origins are due to conflicting interests or social positions of the parties. Conflict is generally seen as something negative, however, it can also have a positive influence. Fisher (2004) defines conflict as an incompatible relationship between two or more parties, individuals, and groups including the means of achieving their goals or objectives. Ross (1993) in Fisher (2004) defines conflict management as a series of steps taken by actors or conflicting parties to direct the dispute in a certain direction.

Based on Siregar (2004) there are 5 stages of asset management, namely asset inventory, legal audit, asset valuation, asset optimization, and asset management information system. Asset inventory consists of two aspects, namely physical inventory, and juridical/legal inventory. The juridical inventory relates to the status of mastery, legal issues owned, the deadline for mastery, and others. Meanwhile, a legal audit is a scope of asset management in the form of an inventory of asset control status, systems and procedures for controlling or transferring assets, identifying and finding solutions to legal problems, and strategies for solving various legal problems related to assets control or transfer. One of the stages of asset management is legal audits. Administratively, assets must also be secured in the form of bookkeeping, inventory, and reporting. The lack of land assets belonging to the Serang Regency Government that was recorded/inventory and had legal ownership documents shows the weak asset management that occurred in Serang Regency Government.

**RESULTS AND DISCUSSION**

Geographically, the northern part of Serang Regency is bordered by the Java Sea, Cilegon City, and Serang City. It is bordered by Tangerang Regency in the east, Lebak Regency and Pandeglang Regency in the south, while in the west it borders Cilegon City and Sunda Strait. Such a geographical location is an advantage for Serang Regency where this regency is the gateway or transit of land transportation between Java and Sumatra islands. Serang Regency is also one of the buffer zones for the National Capital because it is only 70 km from the Indonesian capital city, namely Jakarta.

Based on the results of interviews and documentation studies, it is known from the Goods Inventory Card that there are 1,450 plots of land assets owned by the Serang Regency Government. Of the 1,450 asset parcels, only 257 land asset parcels have been certified. Of the 257 certified asset fields, 45% came from grants and
55% came from purchases. The utilization of land assets was mostly used for office buildings and public facilities of the Serang Regency Government. The Regional Financial and Asset Management Agency is an OPD that acts as an asset user OPD and an SKPKD that is coordinating asset management. In asset management, the goods manager is in each OPD, for synchronization of asset data of KIB A and KIB B, asset data reconciliation activities of all goods managers were carried out with the asset section of BPKAD regularly 3 times a year. However, the problem of land assets in the Serang Regency is more complex than the management of other forms of assets.

Chart 1.
Percentage of Area in Serang Regency

Asset management activities in Serang Regency were still dominated by the asset inventory stage. The emphasis of activities on bookkeeping, inventory, and asset reporting. The results of the study indicate that Serang Regency Government’s asset management is still weak in asset inventory activities and legal audits. Where in the asset inventory activity the implementation activities were in the form of recording in the Goods Inventory Card book (Bookkeeping), inventory (data collection of assets owned) for later reporting contained in KIB A and KIB, and inputted in the regional goods information system (ANTISISBADA). The government’s performance report by the BPK, Serang Regency for 10 consecutive years has received an Unqualified predicate. BPK assessed that Serang Regency Government had submitted financial reports based on financial accounting standards, adequacy of disclosure, compliance with laws and regulations, and effectiveness of internal control. (https://news.detik.com/berita/d-5564697/nemkab-serang-raih-opini-wtp-dari-bpk-10-kali-berikut-serta, Monday 10 May 2021). However, based on the results of interviews, it is known that there are still deficiencies in asset management reporting, so starting in 2020, accompanied by KPK, Serang Regency Government has begun to seriously take an inventory of assets, especially land assets belonging to Serang Regency Government.

Related to land disputes that occurred in Serang Regency, almost 90% occurred between individuals/heirs and the Regional Government of Serang Regency. Especially related to land disputes that have long been used as a means of Education, Health (Puskesmas and Pustu). This problem resulted from a grant given by the family of the previous heirs to the Serang Regency Government for a plot of land for public and social facilities such as Education and Health. However, the land grant process was not accompanied by official documents and was allowed to drag on until the first family who gave the asset grant died. The Serang Regency Government itself did not immediately take care of the completeness of the grant documents, especially land grants/grants that were carried out in the 70-90s.

Based on the results of interviews, the following is data on land disputes that are currently emerging in Serang Regency Government:
Table 1. Land conflicts in Serang Regency Government

<table>
<thead>
<tr>
<th>No</th>
<th>Cause of conflict</th>
<th>Parties</th>
<th>Conflict resolution strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>School land dispute</td>
<td>Heir</td>
<td>The heirs filed a claim to the high court, district court, and cassation, and the decision was won by the Serang district government.</td>
</tr>
<tr>
<td>2</td>
<td>Vacant land for final waste disposal</td>
<td>Community person</td>
<td>Destruction of vacant land that has been fenced off by unscrupulous people in the area. Guarded by Satpol PP</td>
</tr>
<tr>
<td>3</td>
<td>Primary school land dispute</td>
<td>Heir</td>
<td>The case is in the trial process for proof of ownership documents.</td>
</tr>
<tr>
<td>4</td>
<td>Vacant land for health center</td>
<td>Individual</td>
<td>Still in the negotiation process for house relocation and proof of ownership documents.</td>
</tr>
<tr>
<td>5</td>
<td>Land used by the school</td>
<td>The company claims the land belonging to the company</td>
<td>A trial is held to prove ownership documents</td>
</tr>
<tr>
<td>6</td>
<td>Lines worth of irrigation with buildings on it in the form of schools, banks, and houses</td>
<td>Between OPDs and community</td>
<td>Between OPDs in the stage of finding locations for school buildings</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>With Community: in the discussion of relocation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>With the private sector (Bank) in the stage of proof of ownership documents</td>
</tr>
<tr>
<td>7</td>
<td>Land use rights by two companies on customary/ulayat land</td>
<td>Private, community, and local government</td>
<td>Two HGL documents were issued on customary lands that were sacred to residents and adjacent to the school location</td>
</tr>
<tr>
<td>8</td>
<td>Ownership of land by individuals for business</td>
<td>Community person</td>
<td>Public Works land and buildings were torn down</td>
</tr>
<tr>
<td>9</td>
<td>Land tenure by the company</td>
<td>Company</td>
<td>Neither party has ownership documents. The local government is in the stage of completing the documents. The company asks to be given a ruislag / swap with the same area in different locations</td>
</tr>
<tr>
<td>10</td>
<td>Location of the Serang Regency Government Center</td>
<td>Public</td>
<td>One plot of land has 6 ownership documents. In the trial stage of proving the ownership documents of each party</td>
</tr>
</tbody>
</table>

Source: processed interview results: 2021

Settlement of Land Disputes in the Context of Securing Land Assets Owned by Serang Regency Government

Government Regulation No. 28 of 2020 concerning amendments to government regulation No. 27 of 2014 concerning Management of State/Regional Property. Chapter 7 article 42 describes asset security consisting of administrative security, physical security, and legal security. Administrative security consists of 3 activities, namely bookkeeping, inventory, and reporting. For land in dispute, the settlement is carried out through deliberation and the judiciary, and arbitration (Istijab, 2018).

a. Administration Security

Administrative security is the security of assets related to the completeness of documents for ownership of land assets such as acquisition documents (land certificates), proof of payments/deeds of sale and purchase, and official reports on the measurement of state property.

Based on the results of the interview, it is known that for land assets originating from grants, there are indeed difficulties in terms of documents on the origin of the
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Grants. Grant certificates made in writing from the grantor to the local government are difficult to trace, while the land has been used for many years for educational facilities, schools, and public health centers or Pustu. Therefore it makes it difficult for the local government to make documents on ownership of the land, especially if the heirs object or file a claim for compensation for the land used by the local government.

So far, land assets belonging to the regional government or used for public facilities were considered quite safe, namely recorded in the Goods Inventory Card A at the user's OPD and inputted into the regional goods information application even though other documents were not owned or were difficult to trace. The conflict then arose when the heirs objected to the use of the land. Serang Regency Government itself admitted that it is difficult to trace or find land grant documents that occurred in the 1970s – 1990s. The administration of land ownership by the asset division has indeed been more intensively carried out since 2000, although this activity is also hampered by human resources and the manual reporting system.

Based on the results of interviews, it is known that Serang Regency Government is currently referring to the Decree of the Minister of Home Affairs Number 050-3708 of 2000 that local governments can issue a certificate of origin of land if the physical existence of the land asset is there and the location is known which is called a unilateral issuance letter. Accompanied by BPN, asset division, user OPD, Bapedda, sub-district head, and village head conducted physical tests/physical checks. The following are the stages of physical land cultivation:

1. Physical checks/physical processing of land locations were carried out together with the head of the RT, the north-south west-east border, the BPN, the village head, and the head of the sub-district head.

2. Then a land history letter was issued from the village.

3. A certificate of non-dispute was issued.

4. Before making a field map, land asset registration was carried out at BPN. If the land information system at BPN shows the location of the land that has been issued unilaterally SPH there was no other recorded data (HGU, plot map) then it can be continued for the processing of land ownership certificates/documents. However, if it turned out that in the BPN data the location of the land has been registered or other certificates have been issued, then the unilateral SPH was canceled and cannot be processed further.

Regarding the land registration system in Indonesia, Based on Government Regulation Number 24 of 1999, used a land registration system for negative publications with positive tendencies. The point is that this registration system uses a rights registration system (the Torrens/registration of Tilles system), however, the publication system has not been able to be purely positive. It is since the physical data and juridical data in the land certificate were not certain to be correct, although they must be accepted by the court as correct data as long as there was no evidence to prove otherwise (Indiraharti, 2009). In addition, if a party experiences loss of land rights due to illegal transfer of land rights by other parties or errors in the register, the government did not provide compensation guarantees. To solve this problem, the government used the rechtsverwerking institution because customary law was more widely used. In customary law, if a person has left his land uncultivated for some time, then the land was worked on by another person who acquired the land rights in good faith, and the original landowner experienced the loss of his land rights (UUPA). (Bappenas, 2016).

Since the land registration system in Indonesia used a land registration system
with a negative substance with a positive tendency, then for land disputes that occurred in Serang Regency Government, a trial was held to decide who has the right to be the owner of the plot of land. In the trial process, an appealing test of the document proving land ownership was carried out. If the trial decides that the Serang Regency Government was the rightful owner of a piece of land, then the community/company that loses the trial must accept the decision and not receive any compensation from the state. However, if the court’s decision states that Serang Regency Government has lost in proving ownership documents, the court’s decision can be in the form of the Serang Regency Government paying compensation on land owned by another party.

Meanwhile, the stages for the process of certifying land owned by the regional government go through several stages, as follows:

1. The local government, in this case, the OPD user of land assets, registers land asset certificates with the National Land Agency by bringing documents on the origin of the land and information from the village.
2. Measurements were carried out by BPN accompanied by parties from the village, border neighbors, Bapedda, asset division, spatial planning, and settlement services.
3. If the land area was by the document, a field map from BPN will be issued.
4. Before the issuance of the BPN’s decision letter on the land being measured, BPN re-verifies the location of the land if there are complaints or objections. If there isn’t, then
5. Then a BPN decision letter was issued for the land.
6. Land certificates from BPN were issued on behalf of the local government with user descriptions on the land.

The administrative security of land assets belonging to the regional government is different when at the time of measuring the land it is different from the document of the origin of the land. If what happens is that there is an excess or lack of land area, then the process of making land documents starts all over again as described previously. Currently, in the process of securing the administration, 262 land assets have been submitted for certificates, and in the process of measuring 80 assets, field maps have appeared.

b. Physical Security

In terms of the physical security of land assets, it is considered easier for local governments to carry out security directly by OPD users of assets. The forms of physical land security are divided into 2, namely for vacant land or vacant land, security is given a stake or boundary on the land and a sign is given explaining land ownership. Meanwhile, for land with buildings, fences or walls were provided and equipped with CCTV surveillance cameras and were given a picket schedule for security. Regarding physical security, if land assets that have been given physical security are damaged or taken over by community elements or companies, then such actions can be criminalized. Or if community elements claim land ownership, then build a building on the land without being accompanied by the ownership of official documents, the Serang Regency Government has the right to demolish the building. For the physical security of land objects, it is carried out by installing ownership signs that clearly explain the types of land rights and users and adding the words "Forbidden to enter or use land" under the threat of Article 167 (paragraph 1) of the Criminal Code, Article 389 of the Criminal Code and Article 551 of the Criminal Code.

c. Legal Security

Referring to the definition of land problems in Indonesia Based on the National Land Agency, there are three categories, namely disputes, conflicts, and
cases. Disputes are land issues that do not have socio-political nuances. Regarding the number of land assets belonging to Serang Regency, the dispute was more due to incomplete documents owned and there are differences in perceptions between the community and the local government. Meanwhile, the conflict has broad socio-political nuances. As the lawsuit filed by the heirs to the local government, even closing or blocking the use of buildings that stand on the disputed land. It includes the destruction of vacant land assets that have been fenced in an area that is very thick with champions.

Meanwhile, land cases that occurred in Serang Regency can be categorized into mild, moderate, and severe land conflicts. For minor land conflicts in the form of utilization or use of land belonging to the Serang Regency Government without permission to the user OPD. Like farmers who work on fields/land however do not have permission from the user OPD. The solution is that the user OPD conveys the rules regarding the use of land that must be licensed and provides information on the boundaries of the use of the vacant land.

Moderate land conflicts are conflicts that occur when community/company elements construct buildings on land owned by the local government but do not have original documents or land ownership certificates. For the moderate conflict category, the solution is to tear down the illegal building and guard it by Satpol PP. As happened in Kragilan District where there are people who build buildings for businesses on land owned by Public Works, Serang Regency. The private companies that set up factories in Kopo and Jawilan sub-districts were only based on information from the village that the land was vacant. Negotiations were carried out by Serang Regency Government with the company with the solution that the company was willing to provide land compensation/compensation for land in other areas.

The third category is heavy conflict. Land conflicts were categorized as severe if there were two original ownership documents issued by BPN. These documents were both claimed to be authentic evidence of legal ownership issued by official state institutions. For the heavy category, the settlement was through the courts. The trial process was carried out to show each other the original documents of land ownership by bringing in living witnesses. All forms of land disputes and conflicts that occurred when the community does not like it or files a lawsuit with the local government, will be resolved through a court decision. During the trial process, an appeal will be made for the completeness of the documents owned. If the court decides in favor of the plaintiff (community) in the form of providing compensation or compensation, then the local government must comply with the court’s decision. If the court’s decision decides that the assets belong to the local government, then the plaintiff can file an appeal at a higher court level.

Several cases of land disputes have reached the stage of a cassation trial at the Supreme Court of the Republic of Indonesia. There were land disputes which were won by the heirs and must be returned and some were won by the cassation decision as to the property of the Serang Regency government. If the court’s decision states that the Regency Government must pay compensation to the plaintiff/heirs, then by the direction of Serang Regent, the payment of compensation becomes a priority for regional expenditures, especially if on the disputed land there is an elementary school or health center building. Since 2019, a joint agreement has been made between the Regent of Serang Regency, the Head of BPN, and the High Prosecutor’s Office to fix and resolve all matters relating to the process of legalizing land assets belonging to the Serang Regency Government. The expectation is to secure asset administration, so that physical and land
laws can be carried out to the fullest. If 90% of the land used by the 3 major agencies, namely the Education Office, Health Office, and Public Works Office, is safe Based on the 3 aspects mentioned above, then it can reflect the wealth owned by the Serang Regency Government. Therefore the next activity of asset management, namely the utilization and optimization of land assets, can be carried out and the country however to regional finance.

CONCLUSION
This study concludes that the conflict management activities of land that occurred in the Serang Regency Government were carried out starting from mild conflicts, moderate to severe category conflicts so that the best solution was produced for securing land assets belonging to Serang Regency Government.

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