



FORMS OF LEGAL PROTECTION DUE TO THE CONVERSION OF AGRICULTURAL LAND INTO RESIDENTIAL AND INDUSTRIAL LAND

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ABSTRACT

Background. Indonesia is a developing country that cannot be separated from modernization. Thus, if Indonesia turns into a modern country, it must change itself from an agrarian country to an industrial country. Local government and related agency officials in an effort to realize the protection of sustainable food land are still limited to carrying out their main duties and functions as outlined in the local regulation, there are no other sociological efforts aimed at realizing the protection of sustainable agricultural land. The purpose of this research was 1) to find out the government's legal products in reducing the conversion of agricultural land into housing and industrial land, 2) to find out the form of legal protection due to the conversion of agricultural land into Housing and Industrial land.

Research Method. This research used normative juridical that examine the regulations both legislation and other regulations under the law that have a relationship with research problems. In conducting research, the author uses several approaches, including a statutory approach, conceptual approach, historical approach and comparative approach.

Findings. The conversion of agricultural land to non-agricultural uses in various regions in Indonesia is mostly carried out by the landowners themselves and is influenced by other factors both internal and external as well as policy factors from the government.

Conclusion. The conversion of land that has been designated as sustainable food agricultural land for the public interest can only be carried out on the condition that a strategic feasibility study.

Keywords: Agricultural land, Diversion, Protection.

BACKGROUND

Since humans first settled the earth, soil has been one of the main elements in supporting the continuity of life. Land functions as a place for humans to do activities to maintain their existence. The first activity carried out by humans was the use of land in agriculture, namely farming.[1]

Book II of the Civil Code (in Bahasa called as K.U.H Perdata)[2] regulates the law of objects which contains articles / provisions governing movable and immovable objects (land).[2] Therefore, in discussing the law of objects as stipulated in Book II of the Civil Code, it should be taken into account the enactment of the Basic Agrarian Law, namely Law Number 5 of 1960 concerning Basic Agrarian Regulations, commonly known as the Basic Agrarian Law (UUPA)[3] which came into force on September 24, 1960 and Law Number 4 of 1996 concerning Land Mortgage and Objects Related to Land which came into force on April 9, 1996.[4]

In the Big Indonesian Dictionary, the definition of land is stated, namely the surface of the earth or the layer of earth that is above once. The definition of land is regulated in Article 4 of the UUPA, which states as follows[5]: On the basis of the right to control from the State as referred to in Article 2, various kinds of rights over the surface of the earth, called land, are determined, which can be granted to and owned by persons, either alone or together with other persons and legal entities".

Land has a very important meaning for every individual in society, because it has a close relationship with the existence of each human being in the environment and their survival[6] given the importance of land for the above individuals, the provisions of land registration in Indonesia itself are regulated in Article 19 of the UUPA and then implemented by Government Regulation Number 10 of 1961 (PP 10/1961)[7] which came into force on March 23, 1961, and after being in effect for 36 years, it was then replaced by Government Regulation Number 24 of 1997 (PP 24/1997)[8] as a revision of PP10/1961, which was promulgated on July 8, 1997 and effective since October 8, 1997. As the Implementing Regulation of GR 24/1997[8], Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 3/1997 (PMNA/Ka.BPN No. 3/1997)[9] on the Implementing provisions of Government Regulation No. 24/1997 on Land Registration was issued. The Government Regulation mentioned above is a form of implementation of land registration in the framework of Rechts Kadaster which has the aim of ensuring legal order and capacity for land rights or also called legal certainty[10], as well as legal protection to people or holders of land rights, which at the end of the registration process produces evidence in the form of land books and land certificates consisting of copies of Land Books and Letters of Measure. It is stated in Article 19 Paragraph (1) of the UUPA that in order to ensure legal certainty of land rights, the Government is required by the UUPA to conduct land registration throughout the territory of the Republic of Indonesia and this is regulated by a Government Regulation. Article 19 paragraph (2) of the UUPA stipulates that land registration must cover two matters, namely:

- a. Measurement and mapping of land and organizing its administration.
- b. Registration of rights and their transfer and the provision of letters of evidence of rights, which act as strong evidence or proof.

In the context of its implementation, land registration is carried out or carried out with various activities including the implementation of bookkeeping, registration and transfer / transfer of land rights. Legal certainty of objects implies that registered land parcels are unique, both in location, area and boundaries. This uniqueness also ensures that the boundaries can be restored if in the future the land boundary signs are lost. Legal certainty of the subject that the rights registered in the public register are guaranteed to be true as legitimate and actual right holders whose owners are based on good faith. Providing legal certainty in the land sector requires the availability of a complete and clear written law that is implemented consistently in accordance with the spirit and content of its provisions. As described above, this is currently regulated in GR 24/1997 as a replacement for GR 10/1961 which is considered not to have provided satisfactory results. The objectives and systems used are retained in this GR 24/1997, which are essentially as stipulated in the UUPA, namely, among other things, the Land Registry is organized in order to provide certainty in the land sector.

Apart from being a place to live, land also contains economic value for humans, it can be used as a source of livelihood, whether it is farming or for carrying out business, can be used as loan collateral, and as a source of human livelihood in the future. With this, we can understand how important the position and benefits of land are.

Indonesia is a developing country that cannot be separated from modernization. The modernization paradigm that has been developing is that developed countries are industrialized countries. Therefore, if Indonesia is to become a modern country, it must transform itself from an agrarian country to an industrial country, and for this reason, economic growth is the paradigm of development. However, the impact of such a development pattern is that farmers are displaced and lose their agricultural land, land speculation is rampant, land evictions are everywhere, land control is centered on one or a certain group of people only, and various other land tenure patterns that are far from democratic values and justice.[11] Indonesia as an agricultural country is also supported by a land area of approximately 190.9 million hectares. The 37.1% of the total area has been utilized for cultivation, such as rice fields, dry land farming, plantations, fields and other uses, while the other 62.9% is forest. Therefore, it is possible for Indonesia to prioritize agricultural land management in order to produce agricultural products in the form of basic needs far better than other countries.[12]

Indonesia is a country that has abundant natural resources. Natural resources are managed by the government with the aim of the welfare of its people. This is stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia "That the earth, water and natural resources contained therein shall be under the control of the State and shall be used to the greatest extent for the prosperity of the people". One of them is in the field of land. Land is one of the natural resources important for the survival of mankind. Human life is largely dependent on land, both for livelihoods, clothing, shelter, food and other religious needs. The reality in society is that people will always try to defend an inch of land.[13] So that in their lives, people will never be separated from things related to land.

Since ancient times, people have begun to use land as their livelihood, namely by growing crops. A lot of agricultural land is managed because many people do farming activities so that the Indonesian State is called an agricultural country where the agricultural sector is the main commodity to produce food for its people.

The era of globalization has had a devastating impact on Indonesia, which is now losing its reputation as an agrarian country, with many farmland conversions taking place. As a result of this conversion of agricultural land, it will have an impact on national food security. Indonesia has to import food to meet the needs of the community. And the most regrettable thing is the conversion of productive agricultural land into residential land due to the high demand for housing needs. As stated by Nursid Sumaatmadja, that[13]: "...population growth and increase will encourage the growth of its needs, these needs include housing needs and places of economic activities such as factories, shops, markets and others by shifting agricultural land, especially from agricultural land to non-agricultural land."

According to Utomo, land conversion is defined as a change in function as part or all of the land area from its original function (as planned) to another function that has a negative impact (problem) on the environment and the potential of the land itself.[14]

Some people have built houses on technically irrigated rice fields. This situation will certainly be an example for other communities to also build houses on rice fields around the houses that have been built before. On the other hand, with the increase in population that occurs every year, it will also result in an increase in population density. The higher population density without being accompanied by an increase in the area of settlement land will result in an increase in land conversion. This requires attention from the government, especially the local government in anticipating before uncontrolled land conversion occurs.

From the perspective of human rights,[15] the regulation of the determination of sustainable food agricultural land is important because the need for food is a human right which according to the State, in this case the government and local governments, make efforts to build food security and sovereignty including formulating a legal framework so that food agricultural land can still be utilized for both current and future generations. that will come.[16] In the context of sustainable agricultural development, the protection of food agricultural land is an inseparable effort from agrarian reform which includes efforts to organize, control/ownership related to the legal relationship between man and land.[17] the provision of protection of sustainable agricultural land is intended so that certain land parcels can only be used for appropriate food agricultural activities.

In this case, the role of the government is needed to inhibit the conversion of agricultural land into residential and industrial land. Therefore, to protect the existence of productive agricultural land that has been converted into residential and industrial areas and to provide protection for food security and independence, the government passed Law No. 41/2009 on the Protection of Sustainable Agricultural Land.

RESEARCH METHOD

This research is a normative juridical research, using primary legal sources in the form of legislation, and secondary legal sources in the form of literacy that supports primary legal sources, with a statutory, conceptual, historical and comparative approach.

Primary legal materials used include: Law No. 26 of 2007 on Spatial Planning; Law No. 41 of 2009 on the Protection of Sustainable Food Agricultural Land; Regulation of the Head of the National Land Agency No. 2 of 2011 on Guidelines for Land Technical Considerations in Issuing Location Permits, Location Determinations and Land Use Change Permits; Government Regulation No. 16 of 2004 on Land Stewardship.

FINDINGS

1. Legal Politics of Sustainable Food Agricultural Land Protection

The Preamble of the 1945 Constitution of the Republic of Indonesia states that the purpose of the state is: "To protect the entire Indonesian nation and the entire Indonesian homeland and to advance the general welfare, educate the nation's life and participate in implementing world order based on independence, lasting peace and social justice."

Therefore, the protection of the entire nation and the improvement of public welfare are important responsibilities of the state. One form of such protection is the guarantee of the right to food for all the people, which is a fundamental human right that is the responsibility of the state to fulfill. Formally, the government's authority to regulate the land sector grows and stems from Article 33 paragraph (3) of the 1945 Constitution which states that: "The land, water and natural resources contained therein shall be under the control of the State for the use of the greatest prosperity of the people."

Prior to the amendment of the 1945 Constitution, article 33 paragraph (3) was explained in the explanation of article 33, paragraph 4, which stipulated that:

"The earth and water and the natural resources contained therein are the principal sources of the people's prosperity. Therefore, they must be controlled by the State and used for the greatest prosperity of the people."

Furthermore, it was derived from Law No. 5/1960 on the Basic Regulation of Agrarian Principles (UUPA).[17] The provisions of Article 2 of UUPA, which is the implementing regulation of Article 33 paragraph (3) of the 1945 Constitution, defines the definition of the right to control natural resources by the State as follows:

- 1) On the basis of the provisions of Article 33(3) of the 1945 Constitution and the matters referred to in Article 1, the earth, water, and airspace, including the natural resources contained therein, are at the highest level controlled by the State, as the organization of the power of the entire people. The right to control the State referred to in paragraph (1) of this article gives it the authority to:
 - a. Set up and organize allocation, use, supply and maintenance of the earth, water and space;
 - b. Determine and regulate legal relationships between people and the earth, water and space; and
 - c. Determining and regulating legal relationships between people and legal acts concerning the earth, water and space.
- 2) The authority derived from the State's right to control in Article 33 paragraph (2) is used to achieve the greatest prosperity of the people in the sense of national welfare, independence in an independent, sovereign, just and prosperous Indonesian legal society and State;
- 3) The right to control from the State mentioned above may be granted to the regions, the private sector and customary law communities, as necessary and in line with the national interest, according to the provisions of the applicable regulations.

Based on Article 2 of the UUPA and its explanation, according to the concept of the UUPA, the notion of "controlled" by the State does not mean "owned", but rather the right that authorizes the State to control as mentioned above.[18] The content of the State's authority that comes from the right to control natural resources by the State is solely public in nature, namely, the authority to regulate (regulatory authority) and not to physically control the land and use the land as the authority of "private" land rights holders.

This is in line with the provisions in Article 28A and Article 28C of the 1945 Constitution of the Republic of Indonesia and also in accordance with Article 25 of the Universal Declaration of Human Rights Juncto Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In line with that, efforts to build food security and sovereignty to realize people's welfare are very important to be realized. In order to realize food security and sovereignty, it is necessary to carry out sustainable agricultural development. To control the conversion of agricultural land, Law No. 41/2009 on the Protection of Sustainable Food Agricultural Land is expected to encourage the availability of agricultural land to maintain food independence, security and sovereignty.

Law Number 41 Year 2009 aims to: 1)Protect food agricultural areas and land in a sustainable manner; 2)Ensure the availability of food agricultural land in a sustainable manner; 3)Realizing food independence, security and sovereignty; 4)Protect farmers' ownership of food agricultural land; 5)Increase the prosperity and welfare of farmers and communities; 6)Increased protection and empowerment of farmers; 7)Increase the provision of employment for a decent living; 8)Maintaining ecological balance; and 9)Realizing agricultural revitalization.

The government and local governments carry out development for the welfare of the community through the command of the Law, so that there is an integrated, gradual and

sustainable synergy depending on the vision and mission of each local government as outlined in the annual, medium-term and long-term development plans, in the development, almost all sectors require land. In order to ensure and realize sustainable development, especially in the context of increasing and availability of food, the policy of food independence, food security and food sovereignty is one of the pillars to maintain national sovereignty. Law No. 41 of 2009 on the Protection of Sustainable Food Agricultural Land and Government Regulation No. 1 of 2011 on the Determination and Transfer of Function of Sustainable Food Agricultural Land and Government Regulation No. 1 of 2011 on the Determination and Transfer of Function of Sustainable Food Agricultural Land have regulated land protection and the requirements and mechanisms regarding the Transfer of Function of Sustainable Food Agricultural Land, especially for public interests and disasters.

2. Efforts Made by the Government in Realizing the Protection of Sustainable Food Agricultural Land

Several efforts have been made by the government to realize the protection of sustainable agricultural land, among others;

1) Central Government Policy

In an effort to protect sustainable food agricultural land, it is necessary to have spatial planning and land stewardship, therefore the central government and local governments need and must make arrangements to organize and organize in such a way that the existing spaces are good. Every year the need for land always increases which results in the difficulty of finding or obtaining land to succeed or help the above process, so Government Regulation No. 16 of 2004 concerning Land Stewardship was issued.

Article 3 of Government Regulation No. 16/2004 clearly states 4 objectives of land stewardship, namely:

1. Regulates the control, utilization and use of land for various needs in development activities which are certainly in accordance with the Regional Spatial Plan;
2. Realizing the control, use and utilization of land in accordance with the function of the area in the Regional Spatial Plan;
3. Realizing orderly land which includes control, use and utilization of land including land maintenance and control of land utilization; and
4. Certainly guarantees legal certainty to control, use and utilize land in accordance with the established Regional Spatial Plan.

Article 3 of the Law on Spatial Planning (UUPR), talks about the purpose of spatial planning, which has been stated that the implementation of spatial planning aims to realizing a comfortable, safe, productive and sustainable national spatial area based on the Archipelago Concept and national resilience with :[19]

- a. The realization of a beautiful harmony between the natural and built environment;
- b. The realization of integration by considering human resources and natural and artificial resources; and
- c. Negative impacts on the environment will be prevented, negative impacts due to development or space utilization can be overcome.

What is meant by the word "aman" in this article is a situation where people are safely protected from various kinds of threats in carrying out their daily activities.

Then what is meant by the word "comfortable" is a situation where the community can / can apply social and cultural values and functions in a calm and peaceful situation or

atmosphere. Then what is meant by "productive" is that the production and distribution process runs efficiently so that additional economies are able to provide value for the welfare of the community, and also increase competitiveness. What is meant by "sustainable" is the condition of the quality of the physical environment can be maintained and can even be improved, including anticipation to develop the economic orientation of the region after the exhaustion of non-renewable natural resources.

So it can be understood that the purpose of the spatial planning law is to control development activities that will be carried out in the future by continuing to pay attention to the regulations in this spatial planning law so that there is no chaos in its implementation. Spatial planning is classified based on several aspects, namely: Thus, we can understand the purpose of the spatial planning law, which is to control and regulate development activities that will be carried out in the future, of course, by not forgetting or paying attention to the laws and regulations regarding spatial planning so that there is no confusion or chaos in its implementation. In spatial planning, it is distinguished based on several aspects, namely:[19]

1. Spatial arrangement based on the system, as follows :
 - a. Regional system. This spatial arrangement is a spatial arrangement that has a service scope at the regional level in its approach.
 - b. Internal urban system. Spatial planning is an approach to spatial planning that has a scope of services within urban areas at a level narrower than the comprehensive regional system above.
2. Spatial arrangement based on main function. This spatial arrangement is an important component in spatial planning both based on the strategic value of the area, administrative area and based on administrative areas, spatial planning based on the main function consists of:
 1. Protected forest area. Included in protected areas are:
 - a. Water catchment areas, protected forests and water catchment areas, where this area category is an area that provides protection to the area or area below.
 - b. Local protection areas, the following protection places are borders and beaches, borders and rivers, areas around lakes or reservoirs and areas around other springs.
 - c. Nature reserves and cultural heritage areas.
 - d. Areas prone to natural disasters, for example those prone to landslides and volcanic eruptions
 - e. Other protected areas include, for example, new parks, germplasm protection areas, biosphere reserves, animal refuge areas, and coral reefs.
 2. Cultivation area. Included in the cultivation area category are production forest designation areas, community forest designation areas, agricultural designation areas, mining designation areas, residential designation areas, industrial designation areas, tourism designation areas, places of worship areas, education areas and security defense areas.
 3. Spatial planning based on administrative areas consists of district / city spatial planning, provincial spatial planning, and national areas.
 4. Spatial planning based on regional activities consists of :
 - a. Spatial planning of rural areas
Activities that characterize rural areas include rural settlements, agricultural activities, activities related to natural plant management, natural resource management activities, government activities, social service activities and economic activities.

- b. Spatial planning of urban areas
Activities that characterize urban areas include urban settlements and the concentration and distribution of non-farm activities, such as government service activities, social service activities and economic activities.
5. Spatial planning based on the strategic value of the area consists of :
- a. Spatial planning of district/city strategic areas.
 - b. Strategic spatial planning of provincial areas; and
 - c. Spatial planning of national strategic areas.

Strategic areas are areas that have a major influence on the activities within them, namely as follows:

- a. The spatial layout of the surrounding area;
- b. Other activities in similar fields and activities in other fields;
- c. Improving the welfare of the community of strategic value areas at the national, provincial and district / city levels is measured based on the external aspects, accountability, and efficiency of handling the area as referred to in the law on regional government.[20]

In the authority of the government there must be considered in spatial planning. Article 8 of the Spatial Planning Act has been confirmed about the authority of the government, in addition to the objectives that must be achieved in the implementation of spatial planning, namely:

1. The government's authority in the implementation of spatial planning is as follows:
 - a.Regulation, guidance and supervision of the implementation of national, provincial and district / city spatial planning, as well as the implementation of the spatial planning of the strategic area mentioned above.
 - b.Implementation of national spatial planning;
 - c.Implementation of spatial planning of national strategic areas; and
 - d.Inter-state spatial planning cooperation and facilitation of inter-provincial spatial planning cooperation;
2. The government's authority in the implementation of national spatial planning is as follows:
 - a.National spatial planning;
 - b.Spatial utilization of the national territory; and
 - c.Controlling the spatial utilization of the national territory.
3. The government's authority in the implementation of national strategic area spatial planning includes:
 - a.Designation of national strategic areas;
 - b.Spatial planning of national strategic areas;
 - c.Spatial utilization of national strategic areas; and
 - d.Control of spatial utilization of national strategic areas.
4. Implementation of spatial utilization and control of spatial utilization of national strategic areas as referred to in paragraph (3) letter c and letter d can be carried out by

local governments through deconcentration and / or co-administration.

5. In the context of implementing spatial planning, the government is authorized to compile and stipulate guidelines in the field of spatial planning.
6. In the exercise of authority as referred to in paragraph (1), paragraph (2), paragraph (3), paragraph (4) and (5), the government:
 - a. Disseminate information related to :
 - 1) General plans and detailed spatial plans in the context of implementing national spatial planning;
 - 2) Zoning regulations for national systems that are developed in the context of controlling the spatial utilization of the national territory; and
 - 3) Guidelines in the field of spatial planning.
 - b. Establish minimum service standards in the field of spatial planning.

In management region spatial Authority from government. The authority of the city/regency government is needed, because there should be cooperation between the city/regency and the local government. From the central government and the city / district local government in order for harmony to occur, the following are the powers of the city / district local government:[20]

1. The authority of the district / city government in the implementation / procurement of spatial planning includes :
 - a. Regulation, guidance and supervision of the implementation of district / city spatial planning and strategic areas.
 - b. Implementation of district/city spatial planning;
 - c. Implementation of district/city strategic area spatial planning;
 - d. Cooperation in spatial planning between districts/cities.
2. The authority of the district / city government in the implementation of the spatial planning of the district / city area includes :
 - a. District/city spatial planning;
 - b. Spatial utilization of the regency.kota area; and
 - c. Control of spatial utilization of the district/city area.
3. In the implementation of the spatial planning of the regency / city strategic area, the regency / city government implements;
 - a. Designation of district/city strategic areas;
 - b. Spatial planning of district/city strategic areas;
 - c. Spatial utilization of regency/city strategic areas; and
 - d. Control of spatial utilization of strategic districts/cities.
4. In exercising authority, local governments, districts / cities refer to the guidelines for the implementation of spatial planning.
5. In exercising their authority, district/city governments are obliged to:
 - a. Implementing minimum service standards in the field of spatial planning. An example of the type of service in spatial planning of the district/city area, among others, is the participation of the community in the process of spatial planning of the district/city area.
 - b. Disseminate information related to general plans and detailed spatial plans in the context of implementing district/city spatial planning; and
6. If in the event that the district / city government cannot fulfill or implement the minimum service standards in the field of spatial planning, the provincial government can take steps to resolve of course in accordance with the applicable provisions in the legislation. Where the provincial government takes steps to resolve in the form of

fulfilling minimum service standards if after the coaching process has been carried out, the district / city government has not been able to improve its performance in accordance with the provisions of the laws and regulations in the field of regional autonomy.

Spatial planning is a process to determine the spatial structure and spatial pattern that includes the preparation and establishment of spatial plans. Therefore, in districts and rural areas spatial planning should be very necessary. In this case to avoid the existence of discontinuity or chaos in the development plan or framework that will be held in the future.[12]

In Article 25 of the Spatial Planning Law, district spatial planning is :

1. Preparation of provincial spatial plans national spatial plans;
 - a. National spatial plan and provincial spatial plan;
 - b. Guidelines and Guidelines for the implementation of the spatial planning sector;
 - c. Regional long-term development plan
2. The preparation of the District spatial plan must take into account :
 - a. The development of provincial issues and the results of the assessment of district spatial planning implications;
 - b. Efforts to equalize economic growth and development of the Regency;
 - c. Alignment of district development aspirations;
 - d. Environmental carrying capacity and capacity. The carrying capacity and capacity of the district area are regulated based on laws and regulations, the preparation of which is coordinated by the Minister who organizes government affairs in the field of environment.
 - e. Regional long-term development plan;
 - f. The spatial plan of the bordering regency; and
 - g. District strategic area spatial plan.

Then in article 48 of the Spatial Planning Law, the spatial planning of rural areas is;

1. Spatial planning of rural areas is directed to :
 - a. Empowerment to rural communities;
 - b. Defense of the quality of the local environment and the region it supports;
 - c. Resource conservation;
 - d. Preservation of local cultural heritage;
 - e. Defense of food agriculture endowment land area for food security; and
 - f. Maintaining the balance of rural-urban development.
- It is an effort to empower rural communities by increasing the productivity of economic activities such as plantation, fishery, and agricultural activities in these rural areas.
2. Further provisions regarding the protection of food agriculture endowment land areas are regulated in law;
 3. Rural area spatial planning is organized in ;
 - a. Areas that are functionally characterized as rural areas covering two or more districts in one or more provinces;
 - b. Rural areas that are part of a district;
 4. Rural areas can take the form of agropolitan areas, which are areas consisting of one or more activity centers as agricultural production systems and management of certain natural resources indicated by the existence of functional interest and spatial hierarchy, namely units of settlement systems and agribusiness systems in a rural area. The development of agropolitan areas aims to

Improve the efficiency of service facilities and infrastructure supporting agricultural

activities, both those needed before the production process, in the production process, and after the production process. These efforts are carried out through regulating the location of population settlements, the location of production activities, the location of service centers, and the placement of infrastructure networks. Agropolitan areas are embryonic urban areas that are oriented towards the development of agricultural activities, agricultural support activities, and agricultural product processing activities. Development of rural areas. This approach can also be applied to, among others, the development of marine, forestry, and mining-based activities;

5. Further provisions regarding the spatial planning of agropolitan areas and spatial planning of rural areas are regulated by government regulations; and Government Policy.[12] Some of the Government's policies include;

(1) Regional Regulation (in Bahasa called as Perda) on the Protection of Sustainable Food Agricultural Land

The Regional Government plans for the Protection of Sustainable Food Agricultural Land and Sustainable Food Agricultural Reserve Land.

- 1) Planning for the Protection of Sustainable Food Agricultural Land and Sustainable Food Agricultural Reserve Land is carried out on food agricultural land and Agricultural food reserve land.
- 2) Planning for the Protection of Sustainable Food Agricultural Land and Sustainable Food Agricultural Reserve Land as referred to in paragraph (2) letter a is carried out for wetland agricultural areas and dryland agricultural areas.
- 3) Sustainable food agricultural reserve land planning as referred to in paragraph (2) letter b is carried out on : a)Abandoned land; b)Production forest land/area through the Community Forest Resource Management (PHBM) program; c)Marginal land areas; and d)Land with low productivity due to disasters.
- 4) Planning for the Protection of Sustainable Food Agricultural Land and Sustainable Food Agricultural Reserve Land as referred to in paragraph (1) includes: policy, strategy, programs and targets, financing plan; and Evaluation.
- 5) Planning for the Protection of Sustainable Food Agricultural Land and Sustainable Food Agricultural Reserve Land as referred to in paragraph (2) includes:
 - a. Long-term planning for 20 (twenty) years;
 - b. Medium-term planning for 5 (five) years; and
 - c. Short-term planning for 1 (one) year.
- 6) Long-term, medium-term and short-term planning for the protection of sustainable food agricultural land and sustainable food agricultural reserve land.
 - b. Regional Regulation on Regional Spatial Plan

The licensing and control mechanism for the implementation of development including utilization control is of course still in accordance with the Regional Spatial Plan (RTRW) that has been planned previously.

Therefore, policies and strategies for the development of the spatial structure of each district are prepared, which include:

- a. urban system policies and strategies;
- b. rural system policies and strategies; and
- c. network system development policies and strategies.

The explanation of government policies and strategies is as follows:

1) urban system policies include:

- a. the development of an urban settlement center system by establishing a city-urban and regional hierarchy; and
- b. equalization development and driving growth region throughout the urban area.

- 2) Rural system policies include;
 - a. Development of a system of rural settlement centers by establishing hierarchical village service centers;
 - b. Increasing the scale of service of rural settlement centers; and
 - c. Strengthening village linkages through integration of industrial, fisheries, agricultural and plantation activities.
- 3) Policies for the development of major infrastructure network systems include:
 - a. Land transportation network development policies are:
 1. Road network development to encourage regional growth and equity;
 2. Improvement of the public railway network system and railway stations;
 3. Equitable development of public transit systems;
 4. Improvement of the river network system; and
 5. Development and optimization of infrastructure supporting regional growth that is integrated with the river network; and development of infrastructure supporting regional growth that is integrated with the road network system.
 - b. Marine transportation network development policies are:
 1. Increased demand for inter-island crossings;
 2. Improvement of marine transportation network infrastructure.
 - c. Air transportation network development policy.

In the formulation of the spatial pattern plan of the district area is based on the spatial planning strategies and policies of the district area, the capacity and carrying capacity of the environment of the district area, the need for space for the development of socio-economic and environmental activities and the last is the provisions of the law Related. The design or plan of the District area suggested and recommended by the government is divided into 2 (two), namely:

1. Protected Areas, consisting of : a)Areas that provide protection to their subordinate areas; b)Local protection area; c)Protected forest area; d)Areas prone to natural disasters; e)Nature reserves, nature conservation and cultural heritage areas.
2. Cultivation Area, consisting of: a)Residential area; b)Agricultural area, c)Fishery area; d)Livestock area; e)Production forest area; f)Livestock area; g)Mining area; h)Tourism area; i)Industrial area; j)Other designation areas.

When talking about cultivation areas, agricultural areas are included. Agricultural areas are prohibited from being converted and must be preserved. To remain sustainable, it is necessary to have zoning in agricultural areas so that there is no such thing as conversion of agricultural land into housing or industry. Regulations regarding zoning are provisions that regulate the requirements for space utilization and control provisions and are prepared for each block / designation zone whose zoning is in the existing detailed spatial plan. In accordance with the regulations compiled not forget to pay attention.

- a. Provisions regarding the prohibition of land conversion to non-agricultural cultivation land except for the construction of the main infrastructure network system.
- b. Space utilization for low-density farmer settlements;

3. Regulation of the Head of the National Land Agency

For guidance or guidelines in Defense Technical Considerations in the issuance of

Location Permits, Location Determinations and Land Use Change Permits in Gresik Regency still follow and implement the Regulation of the Head of the National Land Agency (in Bahasa called as BPN) Number 2 of 2011. Article 3 of the Regulation of the Head of the National Land Agency (BPN) Number 2 of 2011 states that the Guidelines for Land Technical Considerations in the Issuance of Location Permits, Location Determinations and Land Use Change Permits must be carried out with the following provisions:

- a. Must not interfere with each other's use of the surrounding land;
- b. It must not be at the expense of the public interest;
- c. Pay attention to the principle of justice;
- d. Fulfills the principle of sustainability;
- e. Fulfill the requirements of the law.[21]

Government sanctions

In the current industrial 4.0 era, the higher and increasing pressure on the need and demand for land, both from the agricultural sector and from the housing and industrial sectors as a result of increasing population and development activities, has resulted in the emergence of the phenomenon of land conversion. The change in the use of agricultural land to residential and industrial land is increasing every day. this trend can certainly cause serious problems in the future, if it is not seriously anticipated from now on. It is inevitable that the conversion of agricultural land to residential and industrial land will occur, so efforts can be made to slow down and control the conversion of agricultural land to residential and industrial land.[21]

Sanctions - The sanctions applied by the government are:

1. Administrative Sanctions in the form of: written warning or reprimand, temporary suspension of activities, temporary suspension of public services, site closure, license revocation, building demolition, restoration of land function, intensive revocation, and/or administrative fines.
2. Criminal Sanctions
 - 1) Individuals who carry out conversion of sustainable food agricultural land and sustainable food land reserves shall be punished with a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 1 billion (one billion rupiah).
 - 2) In the event that it is committed by a government official, the punishment shall be increased by 1/3 (one third) of the punishment and if it is committed by a cooperative, its management shall be punished with a minimum punishment of 2 (two) years and a maximum of 7 (seven) years and a fine of at least Rp. 2 billion (two billion rupiah) and a maximum of 7 billion (seven billion rupiah). In addition to fines, corporations can be sentenced to punishment in the form of:
 - a. Forfeiture of assets resulting from criminal acts;
 - b. Cancellation of government contracts;
 - c. Dismissal of the management; and/or
 - d. Prohibition on the management to establish a corporation in the same line of business.
 - 3) In the event that the acts as provided for in this chapter cause damage, the punishment imposed may be increased by payment of damages.

Any government official authorized to issue permits for the conversion of sustainable food

crop land and sustainable agricultural reserve land not in accordance with the provisions as referred to in Article 19 paragraph (2) shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and or a fine of at least Rp. 1 billion (one billion rupiah).[21]

DISCUSSIONS

Legal Protection of Agricultural Land as a Result of Land Conversion in Indonesia.

Land conversion that occurs has actually been a concern of the government. In 2009, the Government passed Law No. 41/2009 on the Protection of Sustainable Food Agricultural Land, hereinafter referred to as Law 41/2009, the consideration for the ratification of this Law is that agricultural land is a gift from God Almighty and is used for the prosperity and welfare of the community. Indonesia, which is an agricultural country, needs to ensure the provision of food agricultural land in a sustainable manner. The state has an important role in fulfilling the right to food of the people and is therefore obliged to ensure food independence, security and sovereignty. The government also understands that population, economic and industrial growth will lead to degradation, conversion and fragmentation of food agricultural land. Agrarian reform related to the rearrangement of control, ownership, use, and utilization requires the protection of food agricultural land in a sustainable manner.

Protection of agricultural land has actually been regulated in Law 41/2009 Article 44 paragraph (1) of Law 41/2009 states that land that has been designated as sustainable food agricultural land is protected and prohibited from being converted. However, there are exceptions related to this protection, namely when the conversion occurs for the public interest. The conversion of agricultural land for public interest is regulated in Article 44 paragraph (3) of Law No. 41/2009 on the Protection of Sustainable Food Agricultural Land, which states that:

The conversion of land that has been designated as sustainable food agricultural land for the public interest as referred to in paragraph (2) may only be carried out under the conditions that

1. Strategic feasibility study conducted
2. Land conversion plan developed
3. Relinquished ownership rights from the owner, and
4. Replacement land is provided for converted sustainable food agricultural land.[19]

Sustainable food agricultural land is protected and cannot be transferred except for the public interest. This exception means that the protection of sustainable food agricultural land is not fully protected. Land acquisition, which is a public interest development activity, has an important role to play development, but sustainable food agricultural land also plays a role in maintaining food security.

Conversion continues to occur on sustainable food agricultural land and the Government is responsible by providing provisions in accordance with Article 46 paragraph (1) of Law 41/2009 which states that the provision of replacement land must fulfill the following provisions

1. At least three times the land area in the event that the converted land is irrigated land
2. At least twice the land area when converted to tidal and non-tidal marsh reclamation land.

3. At least one time the land area in the case of non-irrigated land conversion.

The protection of agricultural land when it is converted to non-agricultural use due to land acquisition can take into account this article. When the conversion of agricultural land into settlements or industrial areas becomes a different issue because this change is carried out by the community and for their own interests.

Article 6 of the UUPA explains that every land has a social function, so the use of land including changes to its function must not override the social function. The principle that every land has a social function cannot be applied to some land, agricultural land that has a function to feed the community often changes its function just to meet the needs of the owner. The government makes policies so that agricultural land is not easily transferred to other people or changes its function. The transfer of agricultural land to non-agricultural land cannot be done immediately, the landowner must carry out a permit that has been determined by the Government in accordance with the transfer of its function.

1. Land Use Change Permit or often called IPPT. IPPT is a land use permit that must be carried out by individuals who will change the use of agricultural land to non-agricultural, especially residential houses with a maximum size of 5,000 m² (five thousand square meters).
2. Location Permit. This permit is used for the acquisition of land used for capital investment. The size limit is agricultural businesses of more than 25 hectares and non-agricultural businesses of more than 1 hectare.
3. Land utilization permit. A land use permit owned by individuals or entities carrying out activities that cause land changes to buildings provided that agricultural businesses are less than equal to 25 hectares and for non-agricultural businesses less than equal to 1 hectare.

Permits must be obtained by every agricultural landowner when they want to transfer to another party or change the function to non-agricultural. IPPT is a permit that is carried out at the local Land Office, before an agricultural land will change function, technical considerations are first requested from the Head of the Land Office, Bappeda, Government, Agriculture Office, Sub-district Head and Lurah to make a decision letter. Previously, the applicant or landowner registered their land at the Land Office to be converted to non-agricultural use. Administrative completeness is completed, then a Site Review will be conducted by the Land Office. The government has basically protected agricultural land by issuing regulations. However, this protection is not fully implemented because agricultural land is still being protected can be transferred to realize the public interest and the private interest of the landowner. Land conversion is a change for other uses caused by factors that broadly include the need to meet the needs of an increasing population and increasing demands for a better quality of life. Land conversion is caused by several factors including.

1. Internal Factors

Internal factors are factors from within, this factor looks more at the side caused by the socio-economic conditions of agricultural households using land farmer characteristics that include age, level of education, number of family dependents, land area owned and the level of dependence on land. This causes rural areas engaged in agriculture to lack productive labor, because they are left to the city. In addition, the increasing operational costs in processing agricultural land also cause farmers to experience losses, so they prefer to switch professions and sell their agricultural land so that it is converted into non-agricultural land.[21]

2. External Factors

External factors or factors from outside are factors caused by the dynamics of urban growth, demographics and the economy. In this case, these factors include:

- a. The urban growth in question is the more dense urban areas, there will be expansion to the periphery or back of the city. Rural areas as the back area of the city that supplies the food needs of the city will begin to be pressed and eroded due to the rapid growth and development of the city, so that productive agricultural land located in the village will change function as residential or industrial land.
- b. Demography or population referred to here is the increasing growth and number of people which causes an increasing demand for land to be used as housing or residence. Rapid development is considered one of the causes of the decline in the growth of agricultural production, especially rice production.
- c. Economic factors are factors in the increasing need for land in the economic sector, whether it is used for tourism or trade activities. In addition, economic pressure during the economic crisis can also cause land conversion. This causes many farmers to sell their assets in the form of fields, gardens and rice fields to meet their needs, which has an impact on increasing the conversion of rice fields and increasing land control by capital owners or investors.[21]

3. Policy Factors

Policy factors relate to aspects of regulations issued by the central and local governments related to the conversion of agricultural land. The weaknesses in the regulatory aspects themselves are mainly related to the issue of legal force, sanctions for violations and the accuracy of land objects that are prohibited from being converted. In addition, the lack of real action (only discourse) and the unclear steps taken by the government in minimizing activities have caused the conversion of agricultural land to become more and more widespread. In addition to the three factors above, there are several other factors that cause the conversion of agricultural land, including:

1. Population factors, the rapid increase in population has increased the demand for land for housing, services, industry and other public facilities.
2. Land needs for non-agriculture. Land needs for non-agricultural activities include the development of real estate, industrial areas, trade areas and other services that require large areas of land, some of which come from agricultural land that is still categorized as productive, including rice fields;
3. Economic factors are based more on the high value of *land rents* obtained from non-agricultural activities compared to the agricultural sector.
4. Socio-cultural factors related to land conversion include the existence of inheritance laws that cause fragmentation of agricultural land, so that it does not meet the minimum limits of profitable business economies of scale;
5. Weak control functions and enforcement of regulations by relevant institutions.

CONCLUSION

The conversion of agricultural land into residential and industrial land is carried out due to the procurement of development land for the public interest and also by the landowners themselves as the community. Protection of agricultural land has actually been regulated in Law 41/2009 Article 44 paragraph (1) of Law 41/2009 states that land that has been designated as sustainable food agricultural land is protected and prohibited from being converted. However, there are exceptions related to this protection, namely when the conversion occurs because it is in the public interest Law 41 of 2009. Article 44 paragraph

(3) of Law No. UU 41/2009, states that the conversion of land that has been designated as sustainable food agricultural land for the public interest as referred to in paragraph (2) can only be carried out on the condition that a strategic feasibility study is conducted, a land conversion plan is prepared, the owner's ownership rights are released, and replacement land for the converted sustainable food agricultural land is provided.

The Government has provided legal protection for agricultural land by issuing several regulations such as Law No. 41/2009 on the Protection of Sustainable Food Agricultural Land. This regulation emphasizes that sustainable food agricultural land must be protected and cannot be converted except for the public interest. When the conversion of agricultural land is privately owned, it cannot be done automatically but must be done through a Land Use Change Permit applied for at the local Land Office.

Conflict of Interest

The authors declare no conflicts of interest in this work and publication of this paper.

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