



Juridical Analysis Of Land Allocation In Forest Areas Over BP Batam's Management Rights On Rempang Island

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Abstract. *The incident of residents on Rempang Island rejecting the development of the Rempang Eco-city Project certainly raises many questions for the general public in viewing this problem. With the publication of Coordinating Ministerial Decree Number 7 of 2023 concerning the Third Amendment to Coordinating Ministerial Decree Number 7 of 2021 concerning Amendments to the List of National Strategic Projects, the public is in the spotlight to find out what processes and laws and regulations regulate each process and stage. To study this in more depth, it is necessary to carry out a Juridical Analysis of the Allocation of land in Forest Areas above BP Batam's Management Rights on Rempang Island to be able to find out the legal arrangements, implementation, obstacles and solutions for allocating land in forest areas above BP Batam's Management Rights on the Island. Eccentric. The research method used is a normative and juridical approach, which focuses on doctrinal legal research and refers to legal norms contained in applicable laws and regulations as a normative basis, so this research emphasizes secondary data sources, both in the form of theories- legal theory and through interviews with sources or parties related to the problems to be researched above. All data obtained is then processed, analyzed and interpreted logically, systematically using deductive methods. The results of research on the allocation of land in forest areas above BP Batam's Management Rights on Rempang Island based on applicable laws and regulations are not justified and BP Batam will not be able to use and utilize all or part of its land either for its own use or in collaboration with other parties because BP Batam's authority as the holder of Management Rights will only arise after the issuance of a Management Rights Certificate from the Batam City National Land Agency Office, it is not permitted to carry out new development and development in forest areas before changes to the designation and function of forest areas are made, and if it is on land that will be granted Rights Management still has land/buildings/plants belonging to the people, so compensation for losses and relocation of residents to new residential areas must be carried out first on the basis of deliberation. The author hopes that from the research that has been carried out, the government can create legal products that create a sense of justice for society and can turn the results of this research into useful knowledge for parties facing similar legal problems.*

Keywords: Land Allocation, Forest Area, BP Batam Management Rights

1. INTRODUCTION

The principle contained in the Basic Agrarian Law is to realize the greatest prosperity of the people, and it is necessary to regulate the physical aspects of land use and regulate the legal aspects of land tenure. Therefore, the Basic Agrarian Law (hereinafter referred to as UUPA) mandates the government to make plans regarding the supply, allocation and use of land, for various development purposes aimed at the prosperity of the Indonesian people. The power given to the State over the earth, water and natural resources contained therein focuses on the State to regulate ownership and purposes in its utilization, so that all land in the entire territory of the Unitary State of the Republic of Indonesia is used for the greatest prosperity of the people as mandated in the provisions of Article 33 paragraph (3) of the 1945 Constitution. The authority of the government in regulating the land sector, especially in terms of legal traffic

and land utilization, is based on the provisions of Article 2 paragraph (2) of the UUPA, namely in terms of the authority to regulate and organize the allocation, use and maintenance of land, including determining and regulating legal relationships between people and land and also determining and regulating legal relationships between people and legal acts concerning land.¹

Along with the times, there is an increase in development in all sectors of the economy, this is certainly a factor in the increasing need for “land”. Following the current development, from time to time land-related issues are increasingly developing as controversial objects. As we all know, the development of the land management planning process on Rempang Island has become a hot topic of discussion in the community. The forestry sector in Indonesia has played an important role in national development since the early 1970s as the largest source of non-oil and gas foreign exchange earnings, a pioneer in industrial development, a provider of employment, and a boost in the development of regions that are in the stage of population development. Therefore, to maintain its productivity, this resource needs to be preserved. Forests play an important role from the economic, socio-cultural and ecological aspects in Indonesia. However, along with the increase in population and global economic growth, the demand for the forestry sector has also increased.

Examining the problems that occurred in Rempang Island, where the land still has the status of a forest area when it was used as the object of the Agreement made between the Batam Authority, Batam City Government and Third Parties (Private) in 2004 to carry out the development and management of Rempang Area covering ± 17.000 Ha (Seventeen thousand hectares), Buffer zone ± 300 Ha (Three hundred hectares), Setokok Island ± 300 Ha (Three hundred hectares) Galang Island formerly occupied by Vietnamese refugees and including the surrounding islands in the tourism sector (Integrated Tourism Area and Exclusive Integrated Tourism Area) including trade, services, hotels, offices, settlements and other development sectors and create synergies to accelerate the realization of the development of the Rempang Area. As is known, currently the land that is the object of the agreement still has the status of Conversion Production Forest covering ± 7,560 Ha (Seven thousand five hundred and sixty Hectares), Protected Forest covering ± 4,694 Ha (Four thousand six hundred and ninety four Hectares), and Buru Park Forest covering ± 2,642 Ha (Two thousand six hundred and forty two Hectares).

Referring to Article 11 Paragraph 2 of Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units and Land Registration that

¹ Urip Santoso, *Hukum Agraria dan Hak-Hak Atas Tanah*, Pustaka Media, Jakarta, 2006, hal. 100.

Management Rights occur since they are registered by the Land Office. So if a Management Rights Certificate has been issued, at that time BP Batam only has the authority to use and utilize all or part of the Management Rights Land to be cooperated with other parties. Based on the above description, the author considers it necessary to examine and scientifically study this issue with the research title “Juridical Analysis of Land Allocation in Forest Areas Above BP Batam Management Rights on Rempang Island”. Based on the background of the problems described above, the problem formulation in this study is as follows:

1. How is the Legal Arrangement of Land Allocation in Forest Area above Management Rights of BP Batam?
2. How is the Implementation of Land Allocation in Forest Area above Management Rights of BP Batam?
3. What are the Obstacles and Solutions of Land Allocation in Forest Area above Management Rights of BP Batam?

In connection with the above problems, the objectives to be achieved in this study are:

1. To find out the Legal Arrangement of Land Allocation in BP Batam Development Area
2. To find out the Implementation of Land Allocation in Forest Area above Management Rights of BP Batam
3. To find out the obstacles and solutions of land allocation in Forest Area above BP Batam Management Rights

2. LITERATURE REVIEW

Efforts to harmonize the legal system with regard to the occurrence of imbalances and differences in the elements of the legal system, carried out by eliminating imbalances and making adjustments to the elements of different legal systems.² Harmonization not only aims at the creation of law, but it is more than just the realization of a good rule of law. There is a continuous development process between the capitalist economic subsystem, the state subsystem, and the civil society subsystem in realizing harmonious law.³ Referring to Article 11 Paragraph 2 of Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Flat Units and Land Registration, Management Rights occur since they are registered by the Land Office. Therefore, if a Management Rights Certificate has been issued, at that time

² Website Kusnu Goesniadhie S, <http://kgsc.wordpress.com/harmonization-of-law/> (terakhir kali dikunjungi tanggal 27 April 2024 Jam 13.25 WIB)

³ Website Riak Embun, Harmonisasi Hukum Dalam Hubungan Masyarakat Dan Negara, <http://riakembun.wordpress.com/2011/02/28/harmonisasi-hukum-dalam-hubungan-masyarakat-dan-negara/>, (terakhir kali dikunjungi tanggal 27 April 2024 Jam 13.35 WIB)

BP Batam only has Management Rights and only has the authority to use and utilize all or part of the Management Rights Land for its own use or in cooperation with other parties as enacted in Article 7 paragraph 1 letter b.

However, looking at the reality in the field, BP Batam through Decree of the Head of BP Batam Number 129/KA- A3/2023 dated June 27, 2023 has appointed a Third Party as the Manager of Rempang Ecocity¹⁰, while the land status is still a forest area and the Management Rights certificate also cannot be processed as a whole because the clean and clear process has not been completed as stipulated in the First Dictum letter c of the Ministerial Decree of ATR/BPN Number 9/VIII/1993 concerning Management and Land Management in the Industrial Area of Rempang Island, Galang Island, and other surrounding islands that if on the land area to be granted with Management Rights there are still land, buildings and plants belonging to the people, the compensation payment must be completed first by the recipient of the rights, as well as the transfer of residents to new settlements, on the basis of deliberation.

The land that is the object of the agreement from the time of the agreement until now is dominantly still in the status of a Forest Area including the status of Protected Forest, Hunting Park Forest and Convertible Production Forest, and for the process of releasing Convertible Production Forest covering an area of 7,560 Ha (Seven thousand five hundred and sixty Hectares) is still in process and has not been completed 7,560 Ha (Seven thousand five hundred and sixty Hectares) is still in process and has not been completed. The previous agreement made between Batam Authority (BP Batam), Batam City Government and Third Parties should also be reviewed more deeply by Batam City Government and BP Batam because the object of the agreement should be more focused to be used for the greatest prosperity and welfare of the people.

The relationship between humans and land can give birth to land rights. Land rights under customary law can be in the form of communal rights (ulayat rights) and individual rights. Communal land rights (hak ulayat) is a right to a piece of land that is directly controlled by a customary law community/customary alliance. Land rights controlled/owned by an alliance or indigenous community are commonly called ulayat rights. Ulayat rights in the legal sense are a series of authorities and obligations of a certain customary law community over a certain area that is its ulayat, as the living environment of its citizens to take advantage of natural resources, including land, within the area.⁴ Policies in the agrarian sector inherited from the colonial government that did not accommodate the interests of the Indonesian people and

⁴ Rosnidar Sembiring, *Hukum Pertanahan Adat*, Rajawali Pers, Depok, 2022, hal. 108.

even harmed the Indonesian people. In response to these demands, the government issued several partial laws that repealed some parts of the colonial agrarian law that were very oppressive.⁵

At this point, one of the priorities that must be done in the context of policy making is to harmonize laws and regulations with an emphasis on protecting the rights of indigenous peoples and equitable justice without dominant favoritism for certain groups of people in planning the development of an area. As a supporting theory in this research, the theory of the legal system and the theory of legal certainty are used, according to Prof. Hart, who in his writing *Positivism and the separation of law and morals* outlines that the legal system is a closed logical system, in which the correct legal provisions can be obtained by logical means from previously established legal regulations, without regard to social goals, politics, moral measures and so on.⁶ According to Utrecht, legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions can or cannot be done and second, in the form of legal security for individuals from government arbitrariness because with the existence of general rules, individuals can know what actions can be imposed or carried out by the State against individuals.⁷

3. RESEARCH METHOD

Research is a key tool in the development of science and technology because research aims to reveal the truth systematically, methodologically and consistently.⁸ In accordance with the problems and objectives of this research, the type of research used is normative research, and socio-juridical. Normative legal research is research that examines document studies using various secondary data such as laws and regulations, court decisions, legal theories, and can be in the form of scholars' opinions. Normative legal research uses qualitative analysis by explaining existing data with statements not with numbers. The things studied in normative legal research include legal principles, legal systematics, legal inventory, clinical law, the level of legal synchronization, legal comparison, and legal history.

This research includes the scope of research that describes, examines and explains and analyzes the general legal theory and legislation and other regulations regarding the occurrence of land allocation in the forest area above the Management Rights of BP Batam, so as to obtain an explanation of how the occurrence of land allocation in the development area of BP Batam

⁵ Benhard Limbong, *Hukum Agraria Nasional*, Margaretha Pustaka, Jakarta, 2012, hal. 144.

⁶ Soetiksno, *Filsafat Hukum Bagian 1*, PT. Pradnya Paramita, Jakarta, 2008, hal. 53.

⁷ Riduan Syahrani, *Rangkuman Intisari Ilmu Hukum*, Penerbit Citra Aditya Bakti, Bandung, 1999, hal.23

⁸ Soekanto, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 2007, hal. 1.

and as a result is expected to explain how efforts to protect the rights of indigenous peoples who are above the Management Rights of BP Batam. This research was conducted using the Statute Approach, historical and cases examined referring to the legal norms contained in the legislation and other applicable regulations from the background, changes and development of legal arrangements, as well as analyzing the history of legal institutions from time to time as a normative footing starting from general premises, to then end up in a specific conclusion as a result of a review of the suitability of one legislation with other laws.

In conducting this research, the author conducted research at BP Batam, BPN Batam City, Protected Forest Management Unit and Production Forest Unit II Batam. Data analysis in this research is carried out by qualitative analysis, namely observing and grouping the data obtained from the research results and connecting each data obtained with the provisions or legal principles related to the problem under study, synthesizing, compiling into patterns, which ends with making conclusions, so that it is easily understood by oneself and others.

4. RESULTS AND DISCUSSION

Legal Review and Implementation Related to the Process of Certifying Management Rights

Land rights regulated by the Basic Agrarian Law (UUPA), namely Property Rights, Building Rights, Business Rights, Use Rights, Lease Rights, while those regulated outside the UUPA include Management Rights and Production Sharing Rights.⁹ Article 33 paragraph 3 of the 1945 Constitution states that the Earth, water and airspace, including the natural resources contained therein, are controlled by the state. Land tenure rights, as outlined in the UUPA, include the authority, rights and obligations that must be carried out by the right holder. The state's right of control over land refers to the state's authority over land as an organization of people's power. According to Article 1 point 3 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Housing Units and Land Registration, the definition of Management Rights is a control right from the state whose implementation authority is partially delegated to the holder of the Management Rights. Management Rights can be granted by government agencies if the land is not only intended to be used for the benefit of the agency concerned, but there are also parts of the land that can be granted with a lower right to third parties such as Building Rights, Use Rights, Rental Rights and others.¹⁰

⁹ A.P. Parlindungan, *Hukum Agraria serta landreform*, Bandung: Mandar Maju, 1989, hal. 109.

¹⁰ Ali Ahmad Chomzah, *Hukum Pertanahan seri III Penyelesaian Sengketa Hak Atas Tanah dan Seri IV Pengadaan Tanah untuk Instansi Pemerintah*, Prestasi Pustaka, Jakarta, 2003, hal. 91.

Management Rights derived from Customary Land are assigned to customary law communities. Management Rights on State Land are granted as long as the main tasks and functions are directly related to land management. Holders of Management Rights are authorized in Article 7 of Government Regulation Number 18 of 2021 to:

- a. Develop a plan for the allocation, use and utilization of Land in accordance with the spatial plan.
- b. Use and utilize all or part of the Management Rights Land for their own use or in cooperation with other parties; and
- c. Determining tariffs and/or annual mandatory fees from other parties in accordance with the agreement.

Based on Article 14 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, namely related to the acquisition of land for Management Rights or Land Rights originating from State Land where there is control of other parties, it is resolved in advance over control and growing plants or other objects on it according to the agreement of the two parties in accordance with the provisions of laws and regulations, and in the event that the acquisition of land for Management Rights or Land Rights originates from State Land where there is no control of other parties, it is proven by:

- a. A statement of physical control of the land parcel witnessed by at least 2 (two) witnesses from the local neighborhood who know the history of the land and have no family relationship and are known to the local village/lurah head or other similar name; and/or
- b. Statement of asset control, for applications submitted by Central Government or Local Government agencies.

Currently BP Batam is in the process of releasing 7,560 Ha (Seven thousand five hundred and sixty Hectares) of convertible Production Forest on Rempang Island and must fulfill the commitments as mandated in the Decree on Release of Convertible Production Forest No. SK.785/MENLHK/SETJEN/PLA.2/7/2023. If the status of the forest area is still not completed, the acquisition of land management rights or land rights originating from the state forest area cannot be carried out because the status of the forest area must be released first, in accordance with Article 16 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021.

Legal Review and Implementation Related to the Release Process of Convertible Production Forest Area (HPK)

Along with the development and population growth of Batam City which is increasing so rapidly, it makes Batam City a dynamic city and makes Batam City more advanced and has quite qualified competitiveness when compared to other cities or regions in Indonesia. Batam City has become a prima donna for foreign investors because it is directly facing the borders of neighboring countries, namely Singapore and Malaysia and this certainly makes investors strategize their business development and race to prepare the location needs of the place of business in order to be able to do business. in preparing the location needs of the place of business in order to build and develop their business. According to Article 92 of Batam City Regional Regulation No. 3 of 2021 concerning the Regional Spatial Plan of Batam City for 2021-2041, areas with cultivation designation which based on laws and regulations in the field of forestry are still designated as forest area designation are not allowed for new development and construction, until changes in the designation and function of forest areas are carried out in accordance with the provisions of laws and regulations in the field of forestry. the provisions of laws and regulations in the field of forestry.

BP Batam as the authorized and responsible party for the management and use of land within its development area as mandated in Government Regulation No. 46 of 2007 began to apply for approval of forest area release to the Minister of Environment and Forestry for a convertible Production Forest area (HPK) of \pm 7,572 Hectares for the development of an international standard management area in the Rempang Island area on September 07, 2021.¹¹ Boundary demarcation of the forest area release approval area according to Article 291 paragraph 2 of the Minister of Environment and Forestry Regulation Number 7 of 2021 begins no later than 3 months after the issuance of the Forest Area Release Approval and must be completed no later than 1 year and cannot be extended. According to Article 291 paragraph 3, boundary demarcation for national strategic projects can be extended once for 2 years. If the Forest Area Release Approval has been completed, it will be used as a requirement for the issuance of a Conformity Approval for Spatial Utilization Activities, which will then be integrated into the spatial plan as stipulated in Article 286 paragraph 5.¹²

¹¹ Website Mahkamah Agung Republik Indonesia,
<https://putusan3.mahkamahagung.go.id/direktori/putusan/zaeed5526f5faad28c29313632373332.html>
(terakhir kali dikunjungi tanggal 30 Mei 2024 Jam 14.50 WIB)

¹² Wawancara dengan Kepala Seksi Perlindungan KSDAE Kesatuan Pengelolaan Kawasan Hutan Lindung dan Produksi Unit II Kota Batam, Rio Bernath Pardede, pada tanggal 01 Juli 2024.

Legal Review and Implementation of the Land Allocation Process (Land Allocation)

On the basis of the provisions of Article 4 paragraph 2 of the UUPA, the holder of a land right is authorized to use the land concerned, as well as the body of the earth and water and the space above it, just as needed for direct interests related to the use of the land within the limits according to the UUPA and other higher legal regulations. Something that may, must or is prohibited to be done, which is the content of the right of control, is the criterion or benchmark for distinguishing between the rights of control over land regulated in Land Law. The right to control from the State over the land obtained by BP Batam in the form of Management Rights which in this case if BP Batam has a Management Rights certificate, BP Batam will only have the authority to hand over parts of the Management Rights Land to Third Parties with Building Rights and Use Rights in accordance with the provisions in the applicable agrarian legislation as stated in the Decree of the Minister of Home Affairs No. 43 of 1977 concerning Management and Use of Land in the Batam Island Industrial Area. The transfer of parts of the Management Rights Land to Third Parties is one of them through the allocation of land.

The allocation of land agreed between BP Batam, Batam City Government and the developer in 2004 has not yet taken place. The land concession should not have been granted by direct appointment to the developer to develop such a large area of land without going through a beauty contest, the concession should have been granted based on a state administrative decision called a license, but the license was preceded by a process in the form of an Agreement or Memorandum of Understanding. Land Allocation by way of limited auction (beauty contest) as referred to in Article 28 letter a shall be conducted by issuance of announcement by the working unit in charge of land management through Batam Concession Agency's official website and/or national/international print media for 14 (fourteen) calendar days. Application Letter shall be submitted by the Land Allocation Applicant no later than 5 (five) working days since the end of the announcement. Land Allocation by regular means as referred to in Article 28 letter b shall be conducted by submission of application by the Land Allocation Applicant.

The process of land allocation based on Article 31 to Article 33 of the Head of Batam Free Trade Zone and Free Port Regulations Number 11 of 2023, will go through several stages as follows:¹³

¹³ Wawancara dengan Kepala Seksi Pengadaan Lahan BP Batam, Fyka Fahala, pada tanggal 08 Juli 2024.

- a. The Land Allocation Request Letter is addressed to the Head c.q. head of the work unit in charge of one-stop integrated services and uploaded through the system;
- b. The technical verification team assesses the application
- c. Assessment criteria as referred to in paragraph (2)
- d. The technical verification team evaluates the Land Allocation application
- e. If the recommendation for approval or rejection as referred to is not issued by the head of the work unit in charge of land management within a maximum period of 10 (ten) working days
- f. Based on the recommendation of the head of the work unit in charge of land management
- g. If within 14 (fourteen) working days the letter of approval or refusal is not issued
- h. UWT invoice is valid for 10 (ten) working days
- i. If confirmation of full payment has been received

Legal and Implementation Review of National Strategic Projects

According to Law Number 6 of 2023 on Stipulating Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, Job Creation improves the investment ecosystem and ease of doing business, and Central Government investment and acceleration of national strategic projects. National Strategic Projects (abbreviated as PSN) are Indonesian infrastructure projects during President Joko Widodo's administration that are considered strategic in increasing economic growth, equitable development, community welfare, and regional development. PSN is regulated through a Presidential Regulation, while the implementation of the project is carried out directly by the central government, regional governments, and/or business entities as well as Government-Business Entity Cooperation (PPP), by prioritizing the use of domestic components. The legal foundation of PSN is Presidential Regulation No. 3/2016 which was successively amended by Presidential Regulation No. 58/2017, Presidential Regulation No. 56/2018, and Presidential Regulation No. 109/2020.

Then based on the Regulation of the Coordinating Minister for Economic Affairs of the Republic of Indonesia Number 7 of 2021 concerning Amendments to the List of National Strategic Projects, the list of projects in PP Number 109 of 2022 was re-evaluated and PSN was added to 208 projects and 10 PSN programs, Permenko Number 9 of 2022 the PSN list changed again with a total of 200 projects and 12 programs designated as PSN, and finally with the inclusion of the Rempang Eco-city Area Development Program in Riau Islands Province in accordance with the Master Plan in Permenko Number 7 of 2023 concerning the Third

Amendment to Permenko Number 7 of 2021 concerning Amendments to the List of National Strategic Projects. According to Government Regulation Number 42 of 2021 concerning the Ease of National Strategic Projects, the definition of National Strategic Projects is projects and / or programs implemented by the Central Government, Regional Governments, and / or Business Entities that have a strategic nature for growth and equitable development in the context of efforts to create jobs and improve people's welfare. In the implementation of the National Strategic Project, of course, there are many obstacles that occur so that in solving problems and obstacles in the implementation of the National Strategic Project or to provide support in accelerating the implementation of the National Strategic Project.

The implementation of land acquisition in the field, which when viewed from Article 173 paragraph 1 above, is the right step to take, in this case because the Rempang Ecocity Development Project will later be developed and managed by a private legal entity, but in reality at this time it is the government that is trying to fulfill its land acquisition with consideration from the government in fulfilling the points of the Agreement made in 2004. BP Batam then seeks to budget costs of Rp. 1.6 Trillion which will be used for land connectivity infrastructure development of Rp. 708.34 Billion, sea connectivity of Rp. 60 Billion, area development of Rp. 790.65 Billion, and road maintenance of Rp. 50 Billion. BP Batam should immediately acquire 2,000 hectares of land out of a total of 17,600 hectares in Rempang covering 3 villages that will be used by a Third Party to build a glass factory and solar panels, of which there are 700 hectares. and solar panel factory, where 700 households are affected. And there is also 1 other village outside Rempang that must be acquired to build the tower / icon of Rempang Ecocity.

Obstacles and Solutions to Land Allocation in Forest Area above BP Batam Management Rights

The obstacles found in the implementation process are :

- a. Residents were provoked by the Legal Aid Organization, Walhi or businessmen who have interests in Rempang;
- b. There is still a lot of rejection of relocation from the local community because they are worried that in the future they will not have a job and lose their livelihoods for their families;
- c. Information related to the compensation value in the relocation process is still unclear and uncertain so that it becomes a wild ball in the midst of the community who did not get an official statement from the government in writing regarding the community's land

below 500m² / house type below 45m², there is a lot of information circulating stating that the community is required to pay the shortage / installments in the future if they want to have a replacement house with a type of 45m².

- d. There is no guarantee for the completion time of the replacement residence and a written explanation of the status of the replacement house if after being relocated.
- e. Article 8 Paragraph 3 letter c of Presidential Regulation 78 of 2023 states that the amount of house rental compensation is for a maximum of 12 (twelve) months, then what if the replacement house has not been completed within 12 months, so doubts arise in the midst of the community because there is no valid written decision to be able to convince the community to be willing to be relocated;
- f. Land cannot be allocated in its entirety at once because
- g. There are old villages and the SK has not been revoked or revised;
- h. Overlapping licenses/non-licenses with other parties have been revoked, but applications for lawsuits to determine disputes over land locations designated as National Strategic Project areas continue to arrive through lawsuits at the District Court/PTUN;
- i. The process of certifying the Management Rights is delayed because the land is not yet clean and clear, so that currently the Bpn Decree for the registration process of BP Batam Management Rights needs to be extended again.

5. CONCLUSION AND SUGGESTION

conclusion

The research conclusion are explained as follows:

- a. The allocation of land in the forest area above the Management Rights of BP Batam based on the prevailing laws and regulations is not justified and BP Batam will not be able to use and utilize all or part of the Land on Rempang Island for its own use or in cooperation with other parties because the authority of BP Batam as the holder of Management Rights will only arise after the issuance of the Management Rights Certificate from the Batam City National Land Agency Office as stated in Article 7 letter b of Government Regulation Number 18 of 2021. In the case of registration of Management Right Application originating from State Land or Customary Land as referred to in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 Article 33 paragraph 1 and paragraph 2, BP Batam as the Applicant must also complete the application with a statement letter of physical control of the land plot and is civilly and criminally liable

stating that there is no objection from other parties to the land. Objections from other parties to the land owned or not in a state of dispute either boundary disputes or control/ownership disputes;

- b. Areas with cultivation designation which based on the laws and regulations in the forestry sector are still designated as forest area designation are not allowed for new development and construction, until changes in the designation and function of forest areas are carried out in accordance with the provisions of laws and regulations in the forestry sector, this is as explained in article 92 of the Batam City Regional Regulation Number 3 of 2021 concerning the Regional Spatial Plan of Batam City for 2021-2041. For forest area status that has not yet completed the process of changing the designation and function of the forest area (its release), the acquisition of Land Management Rights or Land Rights originating from the state forest area cannot be carried out because its status must be released from the forest area first. In accordance with Article 16 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021, if in the process of releasing a state forest area, there is control of other parties, the Applicant must first resolve the control of other parties, first resolve the control of other parties. Recognition of the existence of Kampung Tua customary law community in Batam City is formulated in Batam Mayor Decree No. 105/HK/III/2004 which stipulates that the Kampung Tua area is not recommended to the Batam Authority for granting Management Rights (HPL).
- c. The clash of interest between the State and the Citizen in terms of land use will continue to recur and occur at the commencement of an area development, it is not only about a compensation that becomes an alternative to a solution but rather to uphold the recognition or existence of Ulayat Rights that are respected and taken into account as stated in the First Dictum Letter (c) of the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 9-VIII-1993 on the Management and Management of Land in the Industrial Area of Rempang Island, Galang Island and Other Surrounding Islands, which reads that if there is still land, buildings and plants belonging to the people on the land area to be granted under the Management Rights, the compensation payment must first be completed by the right recipient, as well as the transfer of residents to new settlements, on the basis of deliberation.
- d. Rejection of relocation from the local community is still ongoing to this day, because the community still maintains the land they have occupied for generations, and they do not want to lose their livelihoods which depend on sea catches and gardens to support the

daily needs of their families. They are content with their current situation, and doubt the government's steps and/or promises to provide opportunities or jobs for them given the limited education they have and some have never even attended school at all. There are even people who still doubt the compensation in the form of replacement houses promised by the government, which is unclear when it will be completed and the status of the land for them, for that reason they still survive and defend their residence.

6. SUGGESTION

The research suggestion are explained as follows:

- a. BP Batam should ensure in advance that the land to be cooperated with other parties has obtained its validity with the issuance of its Management Rights Certificate so that BP Batam has its legitimate authority over the land to be used as an object in its agreement with other parties. It is necessary to conduct a study/feasibility study on the agreement made between Batam Authority, Batam City Government and private parties in 2004.
- b. In the implementation of the Rempang Eco-city National Strategic Project, the Government should hold deliberation or dialog with the people affected by the development and/or the old village community and provide protection to the cultural heritage and its area if it has a discourse to relocate the old village community. If the first deliberation results in no agreement, it is necessary to hold another deliberation. If there is an agreement between the government and the community to relocate, there must be a guarantee for indigenous peoples to get adequate compensation.
- c. Customary law communities or parties affected by the Rempang Eco-city National Strategic Project Development if they do not get an agreement on compensation in accordance with their land area can file an objection to the local District Court.
- d. The government provides a legal and written commitment related to compensation, replacement houses and the schedule for completion along with sanctions if it is not in accordance with what is promised to the affected community.
- e. The government needs to improve the regulations that have been made and the regulations that will be made must provide benefits to the community. The government also needs to make local regulations regarding the Old Villages in Batam City in order to clarify the status of the Old Villages and protect the livelihoods of the indigenous people that still exist today.

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