



## Juridical Analysis of Investment in Batam (Case Study in The Rempang-Galang Area)

Nurlaelah<sup>1</sup>, Darwis Anatami<sup>2</sup>, Sayid Fadhil<sup>3</sup>, Soerya Respationo<sup>4</sup>, Erniyanti<sup>5</sup>

<sup>1,2,3,4,5</sup> Faculty of Law, University of Batam, Indonesia

**ABSTRACT.** Investment is an essential instrument for capitalist countries to boost the national economy and create job opportunities for the community. Investment in Indonesia began with Foreign Investment Law No. 56 of 1964, which was later updated with Foreign Investment Law No. 25 of 2007 in line with the times. To increase investor interest in entering Indonesia, the government enacted Job Creation Law No. 11 of 2020, which was further updated through the Job Creation Law up to 2023. Due to the complexity and increasing number of investors facing obstacles such as land acquisition and regional policies, a Presidential Regulation on National Strategic Projects (PSN) was issued. The government's hopes and expectations for smooth investor operations do not always align with implementation. Specifically, PSNs often result in agrarian conflicts for local residents whose land is taken over for PSN purposes. In the context of investment in Batam, particularly the Rempang Eco-City Development Plan in the Rempang-Galang area, clashes occurred and drew national attention and concern from various experts when land measurements began by PT MEG, escorted by the Joint Team comprising police, TNI, and the Ditpam Batam Management Agency (BP Batam). They have not reached an agreement but are already being pushed for swift execution. The obstacles to investment in the PSN Rempang Eco-City include conflicts arising from legal uncertainties over land ownership since the administrative change from Bintan Selatan District to Batam City, becoming Galang District since 1980. Represented by their legal counsel LBH GP Asnhor, they demand legal certainty over their ancestral land to be issued certificates, enabling fair and humane compensation. This demand has been submitted to President Joko Widodo regarding the request for land legality for the villages on Rempang Island, Galang Island, and New Galang Island on behalf of the chairman of the Local Indigenous People's Relatives (KERAMAT) Gerisman Ahmad. Due to these obstacles and conflicts, the central government, through President Joko Widodo, issued Presidential Regulation No. 78 of 2023 on Handling Social Community Impacts in the Context of Land Provision for National Development. However, as of July 2024, there has not been a comprehensive agreement between the community, the Batam City government, and the head of BP Batam. The government is taking a softer approach by personally approaching residents to relocate to Tanjung Banon, where four model houses have been provided as promised incentives for those willing to move.

**Keywords:** Investment, National Strategic Projects, Rempang Eco-City

### 1. INTRODUCTION

Initially, Batam Island was developed as a Logistics and Operations Base. The activity was related to offshore oil exploitation and exploration according to Presidential Decree 65 of 1970. Then on October 26, 1971, President Soeharto issued Presidential Decree Number 74 of 1971 concerning the Development of Batam Island into an Industrial Area. During this period, the forerunner of the Batam Authority emerged which was later inaugurated through Presidential Decree (Keppres) Number 41 of 1973.

Through a series of regulatory and legislative history of the formation of Batam city as an industrial city, the consequence is the development of industry involving investors both domestic and foreign to invest. In terms of understanding, investment is the use of capital to create money, either through means that generate income or through ventures that are more oriented to risk designed to obtain capital. Investment can also mean referring to a financial

investment (where investors put money into a means) or referring to an investment of a business or someone's time who wants to reap the benefits of the success of his work (Undang-Undang Nomor 25 tahun 2007).

Then Presidential Regulation (Perpres) Number 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of the Implementation of National Strategic Projects. Furthermore, Law (Omnibus Law) No. Job Creation Law Number 11 of 2020 concerning Job Creation Forestry Cluster Law regulates the Use of Forest Areas for commercial purposes. It is a series of regulations to strengthen and increase the volume of transactions and quantity of investment, especially in Batam City.

On the basis of PSN, Batam is entrusted by the central government to facilitate the success of PSN in the Rempang-Galang area. This is where this research begins in a series of legal analyses related to investment in Batam with the specifications of the research area in the Rempang-Galang area and its surroundings, the project of which is called Rempang Eco City. In the Rempang Eco City project, the Batam City government continued the land concession to PT Mega Elok Graha (MEG) which had been inactive since 2004 (19 years of inactivity) and was then reaffirmed in 2023. To strengthen this project, the government collaborated with Xin Yi Group, one of the largest glass companies from China in July 2023. According to Minister Bahlil Lahadalia, the Minister of Investment of Indonesia and Head of the Investment Coordinating Board through various national media<sup>4</sup>, Xinyi Group will invest up to IDR 381 trillion until 2080 and is expected to create jobs up to. The Rempang Eco City development project is planned to be built on an area of 8,142 hectares, from 17,600 hectares, the land area in Rempang.

Investment, implementation and obstacles in the form of clashes This is the focus of this research. From the history of the formation of Batam City, Riau Islands Province, the merger of Rempang from South Bintan Regency then became the Batam region since 1992 which has no legal certainty over land, domicile and other citizen rights in the name of investment under the National Strategic project regulation.

Based on the background description above, the author raises several problems that will be discussed further. The problems are as follows:

1. What are the legal provisions governing investment in Indonesia, especially in Batam City?
2. How is the implementation of investment in Batam City in the Rempang area?
3. What are the obstacles and constraints on investment in Rempang Island and alternative solutions to the problems.

Based on the formulation of the problem stated above, it can be seen that the objectives of this research are:

1. Understand how the legal provisions govern investment in Indonesia, specifically in the city of Batam.
2. Analyze the implementation of investment in the city of Batam in the Rempang area.
3. Analyze and sense the obstacles and constraints of investment in Rempang Island and alternative solutions to the problems.

## **2. LITERATURE REVIEW**

In Law No. 25 of 2007 concerning Investment, Article 1 The definition of investment is all forms of investment activities, both by domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia. <sup>5</sup> In the Dictionary of Financial Terms and Investment, the term investment is used in terminology, meaning:

"The use of capital to create money, either through means that generate income or through ventures that are more oriented towards risk designed to obtain capital. Investment can also mean referring to a financial investment (where the investor places money into a means) or referring to an investment of a business or someone's time who wants to reap the benefits of the success of his work (UU No. 25 Tahun 2007 ). Legal Analysis is a series of behaviors of observing, describing, and/or reconstructing an object using legal parameters as a standard in order to draw a conclusion about the object in relation to the law. Therefore, this study discusses investment laws, namely Law No. 25 of 2014 concerning the Foreign Investment Law (PMA) and the Basic Agrarian Law (UUPKA) as well as Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for Recognition and Protection of Customary Law Communities.

Furthermore, Article 6 states that all land rights have a social function. Article 7 In order not to harm the public interest, ownership and control of land that exceeds the limits is not permitted. Article 8 Based on the right to control from the State as referred to in Article 2, the taking of natural resources contained in the earth, water and space is regulated. Article 9 paragraph (1) Only Indonesian citizens may have a full relationship with the earth, water and space, within the limits of the provisions of Article 1 and Article 2 paragraph (2). Every Indonesian citizen, both male and female, has the same opportunity to obtain a right to land and to receive benefits and results, both for themselves and their families. Article 10 paragraph (1) Every person and legal entity that has a right to agricultural land is in principle required to work or actively cultivate it themselves, by preventing extortion (Undang-undang

Pokok Agraria Nomor 5 Tahun 1960).

After all obstacles and barriers can be overcome, the solution to the reality of the obstacles (Das Sein) is in the form of facts that occur. Based on these facts, the obstacles or problems will be sought in this research to find out what should be done as the best solution (Das Sollen). According to Tjahjo Arianto, Lecturer of Doctoral and Masters Program in Geomatics UGM. The letter of the Deputy for Institutional and Community Relations of the Ministry of State Secretariat Number B.2593/Kemensetneg/D-3/DM.05/05/2015 dated May 12, 2015 is a response to the letter of demands from the Kampung Tua community to the President. The essence of this letter orders the Governor of the Riau Islands, the Head of the Riau Islands National Land Agency Regional Office, and the Head of the Batam Business Agency to conduct a study in order to resolve the problem.

The theory of the ideals and objectives of the formation of various laws and regulations always includes the interests of the people as a principle that cannot be missed, but in reality, specifically in the implementation and implementation of these regulations in society, there are many clashes and deviations from Mulya's ideals. The presence of investors is expected to be the progress and welfare of the people in the form of employment, technology transfer, and increased PAD. However, a number of experts, scientists and researchers as well as NGOs have found many things that must be fixed.

Saurlin P. Siagian S.Sos., M.A as Commissioner of the National Human Rights Commission of the Republic of Indonesia delivered a response to the investigation related to agrarian conflicts, especially the Rempang incident. In 2023, Komnas HAM received a significant additional complaint of agrarian conflicts totaling 692 cases. Cumulatively, in the period from January 2021 to August 31, 2023, the number of complaints of agrarian conflicts reached 1,532 cases. Currently, the Agrarian Team is conducting a comprehensive study of agrarian conflicts which is expected to produce a roadmap for resolving agrarian conflicts based on human rights.

### **3. RESEARCH METHOD**

This research is qualitative, namely research that aims to present a holistic contextual discussion by collecting data both in the literature and going into the field for surveys and making the object of research as an instrument for data collection. The specification of this research is a combination of normative and empirical in the field. So that it is compared between the idealism that is aspired to (das Sollen) and reality (das Sein). In other words, normative legal research is the idealism of the law while empirical research is the reality that

occurs at the level of practice and data facts in the research field. This research uses a Case Approach. This approach is carried out by examining all laws and regulations related to investment problems and obstacles as well as causes and solutions to the implementation of laws related to investment. Legal analysis of whether the Eco City Rempang-Galang Area project is consistent/in accordance with the basic law with the law that is used as the basis for current execution.

The location of this research was conducted on Rempang-Galang Island, Batam City with a specific Batam population which includes various parties and agencies related to investment issues in the Rempang Eco City Area. The population to be studied in this case is the entire population of Rempang residents from 16 old villages. In this case, the author will conduct a comprehensive data analysis. Specifically for qualitative research methods using collection and by using interview and observation guidelines<sup>57</sup> on research objects.

#### **4. RESULTS AND DISCUSSION**

##### **Profile of Rempang - Galang, History and Natural Potential of Rempang – Galang**

###### **a. Profil Rempang-Galang**

Rempang has recently been in the spotlight of national media due to clashes between traditional village residents and joint government team officers who were measuring land for the planned execution of the Rempang Eco City project by PT MEG under the Central Government's National Strategic Project (PSN) program. Rempang is the second largest island in the administrative area of Batam City after Batam Island. Rempang Island is part of Galang sub-district which is connected by several bridges from Batam Island. The area of Rempang Island is 165.83 km<sup>2</sup>

As the owners of the old village and the guardians of the natural wealth of Rempang Island, their ancestors were the actors and witnesses of History in the struggle for independence long before Batam City was formed and became an industrial city. Natural wealth is abundant from various sectors, especially the fauna and marine biota sectors. With simple equipment they are able to utilize their marine products which reach 1.1 million tons per year.

###### **b. History of Sultan Riau-Lingga**

During the First Riau War (1782-1784) against the Dutch, they became soldiers of King Haji Fisabilillah (one of the National Heroes). Then in the Second Riau War, also against the Dutch (1784-1787) they became soldiers led by Sultan Mahmud Riayat Syah.

When Sultan Mahmud Riayat Syah migrated to move the center of government to Daik-Lingga in 1787, Rempang Island became the largest defense base of the Riau Lingga Sultanate.<sup>60</sup> The strength of the defense base on Rempang Island, Galang and Bulang, so that Dutch and British troops did not dare to enter the territory of the Riau Lingga Sultanate. The children and grandchildren of these soldiers are the ones who have inhabited Rempang Island from generation to generation until now.

### **c. Legal Analysis Regarding Rempang Investment**

In the legal context, investment in Indonesia is regulated by various regulations and laws that aim to create a conducive investment climate and protect the interests of the state and society. The following are some important laws and regulations related to investment in Indonesia according to the Batam Management Agency:

1. Law Number 25 of 2007 concerning Investment

Article 3 paragraph (1) states that the principle of investment is carried out based on the principles of legal certainty, openness, accountability, equal treatment and non-discrimination of country of origin, togetherness, efficiency with justice, sustainability, environmental insight, independence, and balance of progress and national economic unity.

2. Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Customary Legal Communities

Based on the text of Article 1 paragraph 1 of the Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Customary Law Communities, it reads: Customary Law Communities are Indonesian citizens who have distinctive characteristics, live in groups harmoniously according to their customary laws, have ties to ancestral origins and/or the same place of residence, have a strong relationship with land and the environment, and have a value system that determines economic, political, social, cultural, legal institutions and utilizes a certain area from generation to generation.

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#### **d. Implementation of Investment in Rempang – Galang**

As a form of investment implementation in Rempang, the government collaborated with PT Mega Elok Graha (PT MEG) whose concession has been running since 2004. It only had a vacuum without any clarity for approximately 19 years. In its implementation, the investment that entered Rempang-Galang, Batam City, which was transformed into a National Strategic Project (PSN) experienced obstacles in the form of residents' refusal to hand over their residential land for generations for hundreds of years to PT Mega Elok Graha for various reasons, both historical, economic and social impacts.

The Rempang Eco City project in Batam is one of the National Strategic Projects (PSN) designed to support economic growth and sustainable development in Indonesia. Here are some key points related to this project:

##### 1. Project Objectives:

- a. Building a new city that focuses on environmental sustainability and sustainability.
- b. Improving infrastructure, public facilities, and the quality of life of the local community.
- c. Attracting investment in the tourism, property, and creative industry sectors.
- d. The island has great potential to be developed into a new tourist destination and economic center.

##### 2. Main Components:

- e. Development of green infrastructure such as parks, open spaces, and environmentally friendly transportation systems.
- f. Development of residential, commercial, and industrial areas with an eco-friendly concept.
- g. Development of tourism facilities such as resorts, hotels, and natural tourist attractions.

##### 3. Economic Benefits:

- a. Creating new jobs for local communities.
- b. Increasing regional income through increased economic and tourism activities.
- c. Increasing investment attractiveness in the area.

In the author's findings in the field of this research as conveyed by the Legal Counsel of the Rempang-Galang Community from the Secretary of LBH GP Anshor Batam, Mr. Solikhul Abidin, that the main reason for the refusal of the majority of residents to be relocated or shifted is that the government has not provided legal certainty for their land being combined since the South Bintan District became the Batam city government area since 1986.

With the President's program that is on the side of the community, we really hope that the Gema Patas program for land registration and issuance of land certificates in our villages on Rempang Island, Galang Island and New Galang Island in Galang District, Batam City can also be implemented as soon as possible. From various investigations, both through interviews with figures and literary quotes, it can be concluded that several things are related to the controversy and legal flaws in the granting of land concessions from BP Batam to PT MEG in Rempang-Galang and the surrounding area. Among them:

- 1) Fantastic land control, Rempang Eco City violates Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which states that land control that exceeds limits is not permitted (Article 7), and emphasizes that the government is obliged to prevent any efforts in the agrarian sector from organizations and individuals that are of a private monopoly nature (Article 13 paragraph (2)).
- 2) According to Taba Iskandar's explanation, the concession rights from the 2004 MoU are different from the 2023 concession, which clearly cannot be a legal basis that the concession has been given for a long time.
- 3) Because of Presidential Decree Number 41 of 1973 concerning the granting of management rights to BP Batam, the rights of citizens stated in Article 1 paragraph (2) of the Basic Agrarian Law (UUPA) are not fulfilled as it states "Every Indonesian citizen, both men and women have the same opportunity to obtain rights to land and to benefit from the results, both for themselves and their families.

## **5. CONCLUSION AND SUGGESTION**

### **Conclusion**

The following is a conclusion of a series of field research results regarding regulations, legal basis for investment in Batam, especially Rempang-Galang and its surroundings. Analysis of the implementation of related regulations related to investment. Including research related to all obstacles and recommendations for solutions. Investing in Batam is very tempting for investors in addition to its strategic position on the border of Malaysia and Singapore, making it easy for investors to enter and leave the country. The

existence of the Free Trade Zone regulation provides relief for business actors who make it free of import and exit duties. Cheap labor wages. Are special considerations for prospective investors. Natural potential in the form of agriculture, marine and tourism are a series of tempting potentials, especially in Rempang-Galang.

Based on the results of interviews with local residents, transparent solutions to investment constraints still encounter obstacles and have not been resolved. The personal persuasive approach by the government certainly takes time as the strength of the Rempang residents in defending their land for as long as the solutions offered by the government have not provided social security that is a solution and long-term for residents, especially for those who are old and only used to fishing and farming, for them it is not yet convincing to accept relocation. On the other hand, the village complained about the closed door of negotiation for residents.

### **Suggestion**

After conducting a series of interviews with several parties, figures, residents and observing a number of published data, here are several recommendations or suggestions that the author can convey to policy makers and decision makers for executing investments in Batam.fairness.

#### **a. Regulation / Law**

1. Legal certainty: Transparency of the Licensing Process: The government must increase transparency in the licensing process and ensure the active involvement of all stakeholders, including indigenous communities.
2. Strengthening Legal Protection: Regulations that protect the rights of indigenous communities must be strengthened and implemented consistently. Consultation and approval mechanisms from indigenous communities must be an integral part of the investment process.
3. Article by article of the Job Creation Law and the National Strategic Project prioritize the interests of the people over entrepreneurs because the people have the right to living space.

#### **b. Implementation:**

1. Transparency of the Licensing Process: The government must increase transparency in the licensing process and ensure the active involvement of all stakeholders, including indigenous peoples.

2. In the implementation of Development in the name of the people, Presidential Decree No. 78 of 2023 should better accommodate the interests of the people which are the cause of the clashes
- c. Obstacles and Solutions
1. Community refusal to move or be relocated, the solution is to give them their rights as they demand.
  2. Closed communication and mediation due to the difficulty of offering solutions, then listen to aspirations and Fair Conflict Resolution: The government must provide a fair and effective conflict resolution mechanism, which takes into account the rights and interests of all parties involved.
  3. Sustainable Development: Investments must be made by considering environmental sustainability and the socio-economic welfare of local communities, to avoid long-term negative impacts.

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