

No. Issue: 1 / Review and Perspective | pp. 40-48

## Land Assets PT. Panca Wira Usaha is owned by a Local Company in East Java Province, Occupied by the Community

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Received: 1 Des 2022; Accepted: 7 Des 2022; Published: 22 Des 2022

**Abstract:** When the VOC came to Indonesia around 1577 with the intention to trade and made the kingdom of Mataram a protectorate and since then the role of local officials gradually began to change. The arrival of VOC in Indonesia aims for the following matters: Prevent competition among Dutch traders Obtain a trade monopoly in south Asia or exclusively master the spices both in producing and trading so how the status of people was in that land at PT. Panca Wira Usaha.

The study was qualitative with case study of PT. Paca Wira Usaha. VOC as a Dutch-owned legal entity engaged in trade, it is a little more know the public legal aspects as the influence of Roman law, although no relation belongs to the land, but VOC make agreements with the landowners as if to voc charge as an obligation to rent land through an agreement that is essentially so that the visible aspect of democracy appears.

The Dutch Government established factories in big cities after the VOC successfully mastered inland village for agriculture, plantation and others. One of the factory is Oil Factory "N. V OLIEFABRIEKEN INLINDIE" or known as "Pabrik Minyak Nabati-Yasa PT Panca Wira Usaha", located in Kediri City Government of East Java Province, which is currently a problem between PT. Panca Wira Usaha, East Java Provincial Government Owned Enterprises with the Community of the landowners. The main issue is the provisions of the Law regulating the Dutch Heritage Company, such as Law No. 86 Of 1958 about the nationalization of Dutch-owned enterprises in Indonesia, not supported by UUPA No. 5 Of 1960 on the basic rules of agrarian basic.

While UUPA No. 5 Of 1960 has not been clear in explaining and describing the meaning and substance of the land of the former western rights of the Dutch company, resulting in land tenure by the community. The community can continue to occupy land and houses, as long as they pay rent, through a bank account in the name of PT. Panca Wira Usaha.

**Keywords:** *Land Assets, Regional Owned Enterprises, Occupied by Society*

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### 1. Introduction

Land has a very important economic value for human life both as individuals and as members of society, even in certain societies because of the importance of land, such as in Bali, Minangkabau, Java and others, land also has a very strong magical religious value and the land is always fought for until the last drop of blood, in a Javanese proverb it is said "*sadumuk batuk sanyari bumi, den tohi pati*".

This proverb describes how valuable land is for the life of the Javanese people, in other words, human life and death cannot be separated from land (Setyawan et al., 2019). In connection with the importance of land, problems often occur, with many types of land status, this discussion leads to:

Land of origin from western rights Asset PT. Panca Wira Usaha, owned by a regional company in East Java Province which was occupied by the community, this problem is due to the absence of a clear land legal basis to base the control, occupation, management and acquisition of land rights over the former western rights, formerly inherited by the Dutch company.

UUPA No. 5 of 1960, enacted on September 24, 1960, the Government is trying to carry out the unification and codification of Land law, with the hope of realizing justice and certainty of National Land law or at least being able to reduce land problems, because until now land problems have not been resolved Based on the 1945 Constitution Article 33 Paragraph (3) Earth and water and the natural resources contained therein are controlled by the State, and used for the greatest prosperity of the people, the sentence controlled by the State, should not be interpreted as the State as the owner of agrarian resources on land, but only authorizes the State to regulate 3 (three) matters, in accordance with UUPA Article 2 paragraph (2) concerning:

a. The legal relationship between the State and the land, b. Indigenous peoples with their customary land, c. The legal relationship between the individual and the land (Roestandi, 1962).

The three things the State has to regulate are an inseparable unit and constitute a "Trinitarian" relationship. Especially the former land rights left by Dutch companies (Karyoto et al., 2020).

Issue of Land Assets of PT. Panca Wira Usaha, owned by a regional company in East Java Province which is occupied by the community, is not a new thing, because the community really needs land for life. Land assets belonging to the Regional Government managed by PT. The Panca Wira Usaha originates from the land of former western rights inherited from a Dutch company (Mujiburohman, 2016).

The local government controls the former western rights inherited from Dutch companies, previously some were already controlled by the people, because they were former Company employees, and some were directly controlled by the Regional government, through Companies owned by the Regional Government, to become Regional Government Assets (Bahroni, 2014).

Based on the brief description above, the problems to be discussed are: a. How can the Regional Government of East Java Province obtain land assets formerly left by Dutch companies? b. How can the community occupy, occupy and control the land assets of PT. Panca Wira Usaha, owned by the Regional Company of East Java Province?

## **2. Methodology**

This study uses empirical facts in society, as a sample of problems and uses normative law, as a form of norms that must be obeyed in society, discussing events in the community that occupy/control the land assets of PT. PT. Panca Wira Usaha.

## **3. Result and Discussion**

The Netherlands has a company in Indonesia, obtained when the Dutch colonized Indonesia, the land was obtained from Eigendom land, made by the Dutch Government, while Eigendom land can be divided into two parts consisting of:

### **1. Former Dutch Government Owned Eigendom Land**

Eigendom land formerly owned by the Dutch government is land that was once occupied and used for government administration when the Dutch were still colonizing Indonesia. These lands are often referred to by the name: eigendom Government Indie which was used by the Dutch for offices, buildings, housing, inns, fortifications and others, for Dutch interests.

Land of the former Indie Government eigendom is regulated in:

1). UUPA No. 5 of 1960 concerning provisions for the conversion of Article 1 Paragraph (2) states, eigendom rights belong to foreign governments, which are used for the purposes of the residence of the head of the representative office and the embassy building, since the entry into force of this law becomes the usufructuary rights referred to in Article 41 paragraph (1) which will last as long as the land is used for the purposes mentioned above.

2). Minister of Agrarian Regulation No. 9 of 1965 concerning the implementation of the conversion of tenure rights over State land and provisions regarding subsequent policies,

Article 1, Tenure rights over state land as referred to in Government Regulation No. 8 of 1958 granted to the Ministries, Directorates and Autonomous Regions prior to the enactment of this regulation as long as the lands used for the interests of the Agencies themselves are converted into usufructuary rights, as referred to in UUPA No. 5 of 1960 which lasted as long as the land was used for that purpose, by the agency concerned.

### **2. Eigendom Land Formerly Owned by Dutch Citizens**

The recognition of eigendom rights to the property of Dutch citizens in Indonesia has obtained a legal basis, stated in Article 570 BW/KUHPdt it is stated: eigendom rights (western property rights) are,

the right to an object to enjoy the widest possible range of enjoyment and to use it unlimitedly as long as its use does not conflict with laws or general regulations issued by a power that has the right to issue it and not disturb other people.

Since September 24, 1960 the eigendom rights (western property rights) were no longer valid, with the issuance of UUPA No. 5 of 1960, as stipulated in the provisions of the conversion.

Article 1 paragraph (1) states:

Eigendom rights over land that existed at the start of this law have since become property rights, except if the owner does not meet the requirements as stated in Article 21.

Article 21 paragraph 1 determines: Only Indonesian Citizens have property rights.

Article 21 paragraph 2 determines: The government determines legal entities that can have property rights and the terms and conditions.

According to UUPA No. 5 of 1960 mentioned above, the former holders of Eigendom land rights, especially the former Eigendom lands belonging to Dutch citizens, and already incorporated Dutch law in Indonesia, some of the former rights holders around 1961, applied for Building Use Rights Certificates or Cultivation Rights to become corporations. Limited.

The sample problem is land and Dutch Heritage Houses with a land area of  $\pm 7,429$  M2 The building area of  $\pm 2,142$  M2 consists of  $\pm 42$  House Units, controlled/occupied by the community and former Company employees totaling  $\pm 50$  Heads of Families.

The land is located in the City Government of Kediri, East Java Province, with the original name of the Dutch-owned company "N.V. Oliefabrieken Inlindie " in 1961 issued a Building Use Rights Certificate " by changing its name to: Limited Liability Company Maatschappij Warr Ondernemingen Van Ngoin Heit " NIMAX " NV. domiciled in Amsterdam and based in Jakarta, now PT. Panca Wira Usaha owned by the Regional Government of East Java Province.

Issuance of a conversion building use right certificate for the first time on an application from a former Dutch citizen right-holder who has become an Indonesian citizen, the application for the right uses the basis of the right in the form of:

a. former Eigendom Verp. Number : 1416.

(This eigendom shows the former eigendom of land belonging to private Dutch citizens)

b. former Percell Gouvernements grond, N.V. Oliefabrieken Inlindie "

(This plot shows Persil Eigendom, former land owned by a Dutch Company)

Regarding Dutch citizens or Dutch legal entities in Indonesia, who still owned land in Indonesia, at that time there was no dispute on the basis of:

1) Article 1 of the Civil Code/BW, stipulates: Enjoying civil rights does not depend on state rights. 2) UUPA No. 5 of 1960 concerning Terms of Conversion.

Article 1 paragraph (3) stipulates that eigendom rights belong to foreigners, a citizen in addition to Indonesian citizenship having foreign citizenship and a legal entity, which is not appointed by the government as referred to in Article 21 paragraph 2, since the entry into force of this law becomes a building use right. referred to in article 35 paragraph 1, with a term of 20 years.

Article 21 paragraph 2 states: The government determines a legal entity and the terms and conditions.

Article 35 paragraph 1 states: The right to build is the right to construct and own buildings on land that is not their own, with a maximum period of 30 years.

Article 35 paragraph 2 states: at the request of the right holder and taking into account the needs and conditions of the building, the period referred to in paragraph 1 can be extended for a maximum period of 20 years.

## **EAST EASTERN GOVERNMENT HAVE REGIONAL COMPANY ASSETS FROM WEST LAND RIGHTS**

Regional Government of East Java Province, acquired land from former western rights inherited from the Dutch Company, as Regional Government assets managed by Regional Companies, after Indonesia's independence on August 17, 1945, State assets in the Regional Government, used for public purposes, advancing community economy and to increase local revenue (PAD).

The regional government's control of the former Dutch-owned company is based on:

- 1) Law no. 86 of 1958 concerning the Nationalization of Dutch-owned Companies

Article 1 confirms: Dutch-owned companies located in the territory of the Republic of Indonesia which are stipulated by Government regulations are subject to Nationalization and are declared to be fully and independently owned by the Republic of Indonesia.

- 2) Attachment to Decree of the Minister of Finance No. 470/KMK.01/1994 concerning Procedures for Eliminating and Utilizing State Property/State Assets, Part Two Main Points of Understanding paragraph 1, confirms: State Property/wealth is movable/immovable property owned/controlled by Government Agencies which are partly or wholly purchased at the expense of the State Revenue and Expenditure Budget as well as other legitimate acquisitions.

- 3) Government Regulation no. 38 of 2008 concerning Amendments to Government Regulation No. 6 of 2006 concerning Management of State/Regional Property, Article 2 paragraph 1 letter b, confirms:

State/Regional property includes goods originating from other legal acquisitions.

Article 2 paragraph 2 letter c, confirms:

Goods as referred to in paragraph 1 letter b include, listed in letter c: Goods obtained in accordance with the provisions of laws and regulations.

- 4) Regulation of the Minister of Home Affairs No. 07 of 1973 concerning Distribution of Income for the Granting of Land Rights.

Article 1 paragraph 2 states, State Land that is under the management of the Regional Government, as a former Eigendom right, Opstal right, Municipal or Regency Erfpacht right on behalf of the relevant Government (hereinafter referred to as Regional Government land in this regulation).

Based on the explanation above, every State Asset, whether owned by the Regional Government or owned by the Central Government must be registered in the State Assets Inventory Registration Number, this is regulated in the Laws and Regulations as stated below:

- 1) Presidential Instruction No. 3 of 1971 concerning inventory of State property/State assets.

Number 1 confirms:

The preparation of the Administrative List of State property/State assets was made for the first time according to the circumstances as of April 1, 1969 and April 1, 1970, the implementation of which must have been completed no later than 4 (four) months, from the date this Presidential Instruction was stipulated, namely the 30th March 1971.

- 2) Government Regulation No. 38 of 2008 concerning Amendments to Government Regulation No. 6 of 2006 concerning Management of State/Regional Property. Article 1 paragraph 21 confirms:

Inventory is an activity to collect data, record and report the results of data collection on State/Regional property

According to Boedi Harsono: land tenure rights, contains a series of authorities, obligations and or prohibitions for the right holders to do something about the land being claimed.

Something that is permissible, obligatory or prohibited to do, which is the content of tenure rights, is the criterion or benchmark for differentiating between land tenure rights regulated in land law (Harsono, 1968, 2006).

#### THE COMMUNITY OCCUPIES AND CONTROLS THE LAND OWNED TO PT. PANCA ENTREPRENEURSHIP

Communities occupy and control land and houses owned by PT. Panca Wira Usaha Perusahaan Daerah Province of East Java, because the need for land in urban communities is always increasing, plus people who come from villages to cities, to complain about living in urban areas every year are always increasing, and on average the people who occupy, control land owned by Regional companies, initially classified as people whose lives are not settled and the economy is weak, another reason is because, the need for land is always increasing, while the number of births of the population is always increasing every year, besides that land cannot expand or expand.

The need for a place to live for everyone cannot be avoided, this is also the background of the community, to control/occupy land and houses belonging to PT. Panca Wira Usaha Regional Company of East Java Province.

The control and placement of the land is based on the following considerations:

- 1) Ownership of three Building Use Rights Certificates in the name of the Right Holder, PT. Panca Wira Usaha, a regional company in East Java Province, whose rights have expired, so they become State land with rights attached to it.
- 2) Communities occupy State land continuously for more than 20 years
- 3) The community used to rent land and houses from PT. Panca Wira Usaha, the Regional Company of East Java Province, and the community did not continue to pay the rent, because the State land had become a resident's village.
- 4) Land and Houses abandoned by the Regional Government.

Based on the community's considerations above, the legal basis behind the community occupying State land is:

- 1) UUPA No. 5 of 1960 Article 40 stipulates: the right to use a building is deleted because:
  - a. The term expires
  - b. Terminated before the period ends because a condition is not met
  - c. Released by the rights holder before the expiration date
  - d. Dicabab for public interest
  - e. abandoned.
- 2) Presidential Decree No. 32 of 1979 concerning Principles of policy in the framework of granting new rights to the land of origin of the conversion of western rights.



Article 1 Paragraph (1) states, land use rights, building use rights and usufructuary rights from the conversion of western rights, the term of which will expire no later than September 24, 1980, as referred to in Law No. 5 of 1960, at the expiration of the rights in question became land directly controlled by the state.

Article 5 states that village lands formerly with building use rights and usufructuary rights from the conversion of western rights which have become settlements or are occupied by the people, will be given priority to the people who occupy them, after fulfilling the requirements concerning the interests of the former holders of land rights.

3) Regulation of the Minister of Home Affairs No. 3 of 1979 concerning provisions regarding the application and granting of new rights to the land of origin of the conversion of western rights.

Article 1 states, land use rights, building use rights and usufructuary rights from the conversion of western rights according to the provisions of Law No. 5 of 1960 expired no later than September 24, 1980, at the expiration of the right in question to become land directly controlled by the state and settled according to the provisions of Presidential Decree No. 32 of 1979 and this regulation.

4) Presidential Regulation Number 24 of 1997 concerning Land Registration, as a result of the reform reform of Government Regulation Number 10 of 1961.

Article 24 stipulates, If there is no written evidence, it will suffice to be proven by physical possession for 20 years continuously and obtained in good faith.

5) Regulation of the Minister of Agrarian Affairs/Head of BPN Number 9 of 1999 concerning procedures for granting and canceling state land rights and management rights.

Article 4 stipulates, before submitting an application for the rights of the applicant must control the land being requested as evidenced by juridical data and physical data in accordance with the provisions of laws and regulations.

It is necessary to understand that the people occupying State land, owned by PT. Panca Wira Usaha, originally rented from PT. Panca Wira Usaha Regional Company of East Java Province, regulated in the provisions of the Regulations as stated below:

1) The Civil Code/BW stipulates:

Article 1548, Renting is an agreement, whereby one party binds himself to provide the other party with the enjoyment of an item, for a certain period of time, and with the payment of a price which that party later agreed to pay.

Article 1560, the lessee must fulfill two obligations:

1e. To use the object that is rented as a good landlord, according to the purpose given to the object according to the rental agreement, or if there is no agreement regarding that, according to the purpose that is presumed due to the circumstances.

2.e. to pay the rental price at the appointed time.

2) Regulation of the Minister of Finance No. 96/PMK.06/2007 concerning the implementation of the use, utilization, disposal and transfer of state property.

Article 5 paragraph 4 confirms:

Utilization of state property is carried out in the form of: letter a. Rent

In Appendix II number (1) confirms:

Renting is the use of State Property (BMN) by another party for a certain time and receiving cash in return.

3) Government Regulation No. 38 of 2008 concerning Amendments to Government Regulation No. 6 of 2006 concerning Management of State/Regional Property, Article 1 paragraph 9 confirms:

Lease is the utilization of State/Regional property by another party for a certain period of time and receiving cash in return.

#### **4. Conclusion**

1) Land and house buildings owned by PT. Panca Usaha is an asset of the State/Local Government of East Java Province, which was obtained from former western rights, the legacy of a Dutch company when the Dutch colonized Indonesia.

2) The Regional Government of East Java Province is required to include State/Regional assets, in the form of land and houses, into the State/Regional Government Assets Inventory List, as State/Regional Property managed by State/Regional Owned Enterprises (BUMN/BUMD) PT. Five Entrepreneurs.

3) Communities who occupy/control land owned by the Regional Company PT. Panca Wira Usaha East Java, whose building use rights certificates have expired, can apply for a certificate of ownership rights, as long as they obtain a release from the Regional Government of East Java Province.

4) People who rent land and houses owned by PT. Panca Wira Usaha Perusahaan Daerah Province of East Java, can continue to occupy land and houses, as long as they pay rent, through a bank account in the name of PT. Panca Wira Usaha, on delegation from the Regional Government of East Java Province.

#### **5. Authors' Contributions**

AF was responsible for the concept, design, and overall result of the research.

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