

IMPLEMENTATION OF THE AGRICULTURAL LAND TRANSFER FUNCTION FOR HOUSING IN SIGI

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Abstract

Sigi is a region which has an area of 5.196 km², with a population of 229.474 inhabitants. Sigi location of the region is not too far to the capital of Central Sulawesi province, the city of Palu, from year to year growth of people needing somewhere to stay home. Housing developments in Sigi is growing as well. The impact, the development of residential areas in Sigi reduces existing agricultural lands. With the limited land in this area tends to be increased conversion resulting from agricultural land to non-agricultural rapidly and progressively. Agricultural land have been converted to other uses outside the agricultural sector will be very little chance to turn back to agriculture. The problems examined in this study aims to determine how the implementation of the conversion of agricultural land into housing in Sigi.

The results of this study indicate that agricultural land conversion to non agriculture has frequently occurred in the village of Pombewe, Sigi. Some agricultural land in the village Pombewe much in alihfungsikan into housing, but land is not included in the sustainable food agricultural land, due to be sustainable food agricultural land as well as the requirements and criteria to be set by the Regent.

Keywords: *Housing; Sigi; Transfer Function of Agricultural Land*

INTRODUCTION

National development is a series of sustainable development effort that covers the entire life of the community, the nation and the state to achieve national goals contained in the Preamble to the Law of

the Republic of Indonesia Year 1945 (Constitution Homeland 1945). Related to the above, the Article 33 paragraph (3) Homeland Constitution 1945 provides a "right of possession to the state over the whole of Indonesia's natural resources and

the obligation to the state to use for the greater prosperity of the people". The term "controlled by the state" in Article 33 paragraph (1) Homeland 1945 Constitution must be interpreted in a broad sense, ie not only controls but also owns land, territory, water and airspace Indonesia entirely.¹ Itself "control by the state" in Article 33 paragraph (3) Constitution Homeland 1945 further interpreted authentic and detailed contents of Article 2 of Law No. 5 of 1960 on Basic Regulation of Agrarian (BAL) which is an implementing regulation of Article 33 paragraph (3) Constitution Homeland 1945. Right master of the state interpreted as the task of the authority in the field of public law of the Republic of Indonesia that all the soil include:

- a. Arranging and conducting of allocation, use, supply and maintenance;
- b. Determining and setting the legal relations between the people with the land;
- c. Determining and setting the legal relations between persons and legal actions on the ground.²

Problems that occur in the field of land arose in the dynamics of the Indonesian nation. Every region in Indonesia must have a land problem characteristics that differ from one region to another, it is a form of konsukuensi view and understanding of Indonesian people against the ground. Land has a variety of meanings in our daily lives, therefore in use it is necessary to know their limits in terms of what the term of the land use. Land is a place for living of the majority of mankind as well as the livelihoods of those who make a living through farming business perkebunan tau funds so that in the end the land also the final resting place for humans.³ In the book Introduction to Agricultural Science defines soil as follows: "Land is the transformation of mineral and organic matter on the surface of the earth up to a certain depth, influenced the parent material, climate, living orgasm (mauoun macro-micro), topography and time".⁴ While agricultural land is land used for agriculture than as paddy and dry field all estates, ponds for fishing land where the livestock, the former lading heathlands and forests at

¹Jimly Asshiddiqie, *Comments to Law of the Republic of Indonesia Year 1945*, second edition, Jakarta, Sinar Grafika, 2013, p. 141-142.

²Hasni, *Questioning Law and Justice in the Context Determination of Land Affairs Policy, Spatial Planning and Environmental Management, the Law and Justice (National and International Aspects)*, editor: Ahmad Sudiro and Debi Bram, Jakarta, Raja Grafindo Persada, 2013, p. 328

³Muhammad Ilham Arisaputra, *Agrarian Reform Indonesia*, Sinar Grafika, Jakarta, 2015, p. 55.

⁴Tati Nurmala (et al), *Introduction to Agricultural Science*, Yogyakarta, Graha Science, 2012, p. 20.

the source of livelihood for the beneficiaries.⁵

The high demand for agricultural land to be used as housing in Sigi cause land conversion. The negative impact of their land use is the power degradation dukum national food security, increasing poverty of local communities as well as income from the agricultural sector into decline. Due to the higher demand for a land and human needs continue to increase, both in the agricultural sector or from non-agricultural sector as a result of increased development activities and increasing population as fewer farms then finally involves the conversion of agricultural land to be housing. The only earth inhabited by requiring rescue of man-made threats alone and these earth still could sustain human life,⁶

Factor contributing to the conversion of agricultural land is population growth and competition for land is high, while the growth of sustainable food agricultural land did not happen. To that end, Law No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food intended to protect agricultural land sustainable food. The local government also

needs to establish a policy of sustainable food agriculture land protection in the Regional Regulation on the Protection of Agricultural Land Sustainable Food so that land use can be prevented and food agricultural land can be developed into a perennial agricultural land to realize the independence and food security.⁷

Law No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food, Article 1 (15) provides an understanding of the transformation of agricultural land sustainable food is a change in the function of sustainable food agriculture land into agricultural land is not sustainable food either permanently or temporarily. What it means is a change of land use activities from an activity into other activities. This is a result of the development that continues to grow and increase in population. Growing population and the increasing need for land for development activity has changed the industrial structure quite rapidly and lead to conversion of agricultural land on a large scale. In addition, to meet the needs of the construction industry,

The extent of land will always be amended from time to watu as the increasing need for people to land. The changes

⁵Boedi Harsono, *Indonesian Agrarian Law, History Formation of the Basic Agrarian Law, Content and Implementation*, Jakarta, Djambatan, 2003. P. 269

⁶Soejono, *Role in Environmental Law in Development*, Jakarta, PT Rineka Cipta, 1996, p.2

⁷Retno Kusniati, *Analysis of Legal Protection of Agricultural Land Determination Sustainable Food*, Journal of Legal Studies, Volume 6, No. 2, 2013, <https://online-journal.unja.ac.id/index.php/jimih/>

views with informants from related institutions in Sigi district government, as well as through data collection of documents from the relevant agencies as well. The research approach to this problem using the juridical-empirical methods with emphasis on legislation and regulations, and legal norms that are relevant to the issues in this study.

Specifications Research

Specifications in this research using descriptive analytical research which is research to describe and analyze problems that occur, as well as the type of library research (library research), which will be presented in descriptive form.

Types and Sources of Data

The type of data used in this study a primary data and secondary data. As for the secondary data that were studied were as follows:

1. Primary legal materials namely the Law of the Republic of Indonesia Year 1945, Law No. 5 of 1960 About the Basic Regulation Agraria, Law No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food, as well as other regulations related to the Transfer Function of Land Agriculture.
2. Secondary law ie legal material which provides an explanation of the prima-

ry legal materials in the form of books, scientific papers, research results related to the Agricultural Land Transfer Function.

3. Tertiary legal materials which provide in-depth explanation of the legal materials of primary and secondary law among others Encyclopedia Indonesia and ingredients are sourced from the internet such as law journals, etc.

Data collection technique

The data collection techniques used in this study, among others through documents or library materials and guidelines for the interview. Library materials is composed of primary legal materials, namely legislation, documents, theories and reports related to this research. While the interview guide used to obtain data supporting or secondary. The trick is to ask directly to the resource persons to help guide the interview (interview guide) in depth which have been arranged systematically.

Technique Data Analyst

In this study, the data analysis method used is a qualitative normative method. Normative for this study examines the regulations of existing regulations as a positive legal norms, whereas the mean qualitative data analysis that leads to the discovery of business principles and

new information. Analysis of the data in this study lead to the substance of the law relating to the implementation of the Transfer Function of Land for Housing.

ANALYSIS AND DISCUSSION

Implementation of the Agricultural Land Transfer Function Become Housing In Sigi

Sigi Regency is one of regencies in Central Sulawesi province with the capital Bora in Sub Sigi Biromaru. This district was formed under Law No. 27 of 2008, which is a division of Donggala. Sigi directly adjacent to Donggala and Palu in the North, North Luwu, South Sulawesi Province in the south, then Mamuju and North Mamuju of West Sulawesi and Donggala in the West and Poso district and Parigi Moutong district in the east. Composed of 15 districts in which the District is a district widest Kulawi (1053.56 km²) while the smallest sub-district is District of Dolo that only has an area of 36.05 km².

The research location is precisely located in the village of Pombewe, Sigi. Pombewe village is one of the villages fraction of the District Sigi Biromaru Loru village. Pombewe village is part of Sigi Regency, Central Sulawesi Province which has an area of 57.39 km².

The boundaries the administrat orf Pombewe village is:

- a. West side is bordered by Mpanau / Lolu / Jono Oge Village
- b. East side is bordered by Parimo
- c. South side is bordered by abut Olobuju Village
- d. North side is bordered by Loru Village

Village Community Pombewe most have livelihoods as farmers. Rice area in the village of Pombewe amounting to 423 hectares, mostly used as acreage crops, horticulture. Among the types of paddy land area 373 hectares and the types of corn and vegetable land area of 50 hectares, irrigated by irrigation with 6 hectares of technical drainage.

Based on interviews with the researchers Mr. Nurdin Datunsolang as secretary of the village Pombewe said that the village Pombewe, Sigi has considerable potential agricultural land conversion. In practice, according to Nurdin Datunsolang said that the conversion of agricultural land to non-agriculture has a lot going on in the region. Some agricultural land in the village Pombewe much in alihfungsiikan into housing, but land is not included in the sustainable food agricultural land, due to be sustainable food agri-

cultural land as well as the requirements and criteria to be set by the Regent.

In Article 1 (3) of Act No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food is an agricultural land sustainable food is farm plots are set to be protected and developed consistently to produce the staple food for self-sufficiency, food security and sovereignty national.

Based on Government Regulation No. 1 Year 2011 on the Establishment and Agricultural Land Transfer Function Food set that criteria Region Sustainable Agriculture Sustainable Food is:

1. Has a certain expanse of land with an area of agricultural land as a sustainable food and / or Sustainable Food Agriculture Land Reserve; and
2. Produce staple food with the level of production that can meet the food needs of the majority of the local community, county / city and / or national level.

Detailed elaboration of the provisions of these criteria are as follows:

Expanse of land with an area of particular:

1. The land area required to produce the production of staple food commodities that meet the needs and staple food consumption for:
 - a. Local community;

- b. Society at the district / city;
 - c. Society at the provincial level;
 - d. Society at the national level.
2. Basis for determining the area of land required to produce the production and consumption of essential food commodities that meet the needs of the local community, the community level, district / city, community and society at the provincial level at the national level are as follows:
 - a. The land area required to produce the production and consumption of essential food commodities that meet the needs of local communities to predict on the basis of the level of agricultural productivity of staple food and a population of people in the village / village;
 - b. The land area required to produce the production and consumption of essential food commodities and the population of the district / city;
 - c. The land area required to produce the production and consumption of essential food commodities that meet the needs of society at provincial level is predicted on the basis of the average produc-

tivity level and the population of the province;

- d. The land area required to produce the production and consumption of essential food commodities that meet the needs of society at the national level is predicted on the basis of the level of agricultural productivity of staple food average national level, national food reserves and a population at the national level.
3. Under the provisions of point 1 and point 2 of the set:
 - a. Vast expanse of Agricultural Land Sustainable Food and / or Land Reserves Sustainable Food Agriculture on one area that meets the needs and the local community staple food consumption is at least 5 ha.
 - b. Vast expanse of Agricultural Land Sustainable Food and / or Land Reserves Sustainable Food Agriculture on one area that meets the needs and staple food consumption at the district / city minimum is 5 ha.
 - c. Vast expanse of Agricultural Land Sustainable Food and / or Land Reserves Sustainable Food Agriculture on one area that meets the

needs and staple food consumption in the province is at least 5 ha.

- d. Vast expanse of Agricultural Land Sustainable Food and / or Land Reserves Sustainable Food Agriculture on one area that meets the needs of society and the national staple food consumption minimum is 5 ha.

Criteria for the land designated as Agricultural Land Reserve Sustainable Food set as follows:

1. Being on the inside and / or outside the area of allotment of agriculture;
2. Being in unity expanse of land that supports the productivity and efficiency of production;
3. Has a corresponding potential, according dangat or rather according to the allocation of food;
4. Powered basic infrastructure.

Detailed elaboration of the above-mentioned provisions are as follows:

1. Unity of landscape
 - a. At least has an area of 500 hectares in the Region Sustainable Food Agriculture;
 - b. At least 5 hectares per unit overlay Sustainable Food Agriculture Land Reserve.
2. The technical potential and suitability

- a. Lands designated as reserve land Sustainable Food Agriculture must have the technical potential in accordance with the allotment of land for food crops;
 - b. There is a water source in the form of surface water and groundwater that can be used for crop cultivation;
 - c. There is potential to develop the land into irrigated and non-irrigated areas;
 - d. Farmers are willing to develop food crops in these locations.
3. basic infrastructure
- Development of basic infrastructure at the Sustainable Food Agriculture Land Reserve is already contained in the spatial structure plan includes road transport network development plan and a network of water resources in RT / RW, provincial and district / city.
- Terms of the Sustainable Food Agriculture Region are as follows:
1. Inside or outside the area of agricultural designation
 - a. Located in the area of agricultural designation
 - i. Being in the area of allotment forestry, fisheries, industry converted to agricultural designation region;
 - ii. Can be derived from the former forest area and / or wastelands that have been released by the competent authorities;
 - iii. Defined as the Sustainable Food Agriculture Region in accordance with the mechanisms and procedures for determining Region Sustainable Food Agriculture.
 2. Contained in the Agricultural Land Protection Plan for Sustainable Food.
 - a. Food Establishment plan Region Sustainable Agriculture, Sustainable Food and Agricultural Land Agricultural Land Reserve Sustainable Food must be loaded in the Agricultural Land Protection Plan for Sustainable Food.
 - b. Agricultural Land Protection Plan for Sustainable Food at least the policy, strategy, program indication, as well as programs and financing plan related to the Agricultural Land Protection Plan for Food Berkelanjutanbaik national level, provincial and district / city.
 - c. The charge of policy, strategy, indicative programs and financing plans and programs Sustainable

Food Agriculture Region are as follows:

i. Policy

- For the provincial government and / or the district / city has set a Sustainable Food Agricultural Region in the RTRW Province and / or RTRW district / city the Agricultural Land Protection Plan for Sustainable Food adapted from RTRW Bylaw;
- In the case of the provincial government and / or the district / city has not set a Sustainable Food Agricultural Region in the RTRW Province and / or district / city the Agricultural Land Protection Plan for Sustainable Food set by Regulation Governor, Regent / Mayor.

ii. Strategy

For the provincial government, district / city have not loaded Agricultural Land Protection Plan for Sustainable Food in its medium and CTR, up to the village / urban order Agricultural Land Protection Plan for Sustainable Food customized document RPJM and CTR.

iii. Program

- Agricultural Land Protection Plan Preparation of Food Berkelanjutanyang loaded in the RTRW province, regency / city and RPJM, CTR up to the village / urban coordinated through musrengbangda at district and provincial levels to determine the Agricultural Land Protection Plan for Sustainable Food Priority.
- Plan Preparation Protection of Agricultural Land Sustainable Food that has not been published in the RTRW province, regency / city and RPJM, CTR up to the village / villages through the Decision of the Governor, Regent / Mayor and further coordinated through musrengbangtan and musrengbangda level, district and province to determine Protection Plan Agricultural Land Sustainable food Priority.

iv. financing plan

Results Agricultural Land Protection Plan for Sustainable Food provincial level, regency /

municipal financing is regulated in accordance with legislation.

Sustainable Food Agricultural Land requirements are as follows:

1. Being in / or Regional Agriculture Sustainable Food
 - a. Being in a designated area of food crops, horticulture, plantation and livestock;
 - b. Regional restrictions set on the basis of administrative boundaries of the area; and
 - c. Located in the area of agricultural designation and published in the national spatial plan, RTRW provincial and / or RTRW district / city.
2. It has been established in the Agricultural Land Protection Plan for Sustainable Food.

Terms of the Sustainable Food Agricultural Land published in the Agricultural Land Protection Plan for Sustainable Food *mutatis mutandis* to the provisions of these terms in the Region Sustainable Food Agriculture Agricultural Land Protection Plan for Sustainable Food.

Terms of Sustainable Food Agriculture Land Reserve is as follows:

1. Not in dispute;

2. The ownership status and legal land use;
3. Contained in the Agricultural Land Protection Plan for Sustainable Food.

Based on the above requirements, it is in detail described as follows:

- a. Wastelands and former forest land which has been allocated and / or removable for agricultural designation region;
- b. Not in the land dispute has been released from a forest area that can be converted and / or abandoned land allocated for food security in accordance with laws and regulations;
- c. Status of possession and use of legal land this land has clung to the land rights in the form of state land, granted rights and / or the communal land;
- d. The provisions contained in the Agricultural Land Protection Plan for Sustainable Food *mutatis mutandis* to the provisions of Regions and land requirements contained in the Agricultural Land Protection Plan for Sustainable Food.

Further land has been designated as agricultural land sustainable food protected and converted prohibited except in the public interest and natural disasters, and if broken, then there are administrative sanc-

tions and criminal sanctions to be imposed on the mengalihfungsikan the land.

The administrative sanctions provided for in Article 70 of Law No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food, namely:

- (1) Any person who violates the obligations or prohibitions referred to in Article 34, Article 45, Article 50 paragraph (2), Article 57 paragraph (3) and (4) shall be subjected to administrative sanctions.
- (2) The administrative sanctions referred to in paragraph (1) may be:
 - a. Written warning;
 - b. Pengehentian while activity;
 - c. Temporary suspension of public services;
 - d. Site closure;
 - e. Revocation of a license;
 - f. The cancellation of the license;
 - g. Demolition of buildings;
 - h. Restoration of land use;
 - i. Revocation of incentives; and / or
 - j. Administrative fines.
- (3) Any officer who violates the provisions of sebagaimana referred to in paragraph (1) shall be subjected to administrative sanctions in accordance with the provisions of the legislation.

(4) The procedure of imposition and the amount of administrative fines as referred to in paragraph (2) is regulated by the Government.

Criminal provisions under Article 72 to Article 74 of Law No. 41 of 2009 on the Protection of Agricultural Land Sustainable Food, namely:

Article 72:

- (1) Individuals who perform over the functions of Agricultural Land Sustainable Food referred to in Article 44 paragraph (1) shall be punished with imprisonment of 5 (five) years and a maximum fine 1,000,000,000.00 (one billion rupiah).
- (2) Individuals who do not undertake an obligation to restore the state of Sustainable Food Agricultural Land to its original state as referred to in Article 50 paragraph (2) and Article 51 shall be punished with imprisonment of three (3) years and a fine of not more Rp3.000.000.000,00 (three billion rupiah).
- (3) In terms of the act referred to in paragraph (1) and (2) by government officials, criminal plus 1/3 (one third) of the threatened punishment.

Article 73:

Any officer authorized to issue permits to Agricultural Land Sustainable Food does

not comply with the provisions referred to in Article 44 paragraph (1) shall be punished with imprisonment of a minimum of 1 (one) year and a maximum of 5 (five) years and / or a fine bit 1,000,000,000.00 (one billion rupiah) and at most Rp 5,000,000,000.00 (five billion rupiah).

Article 74:

- (1) In the case of criminal offenses referred to in Article 72 paragraph (1) and (2) committed by a corporation, its officials liable to a term of imprisonment of 2 (two) years and a maximum of seven (7) years and a fine of at least Rp2.000.000.000,00 (two billion rupiah) and at most Rp7.000.000.000,00 (seven billion).
- (2) In addition to criminal penalties referred to in paragraph (1), the corporation can be sentenced as follows:
- a. Confiscation of the proceeds of crime;
 - b. Cancellation of the employment contract with the government;
 - c. The dismissal of the board; and / or
 - d. The prohibition on the board to set up a corporation in the same business.
- (3) In the case of action as set forth in this chapter cause harm, can be sub-

ject to criminal and to payment of damages.

CONCLUSION

Agricultural land in the village Pombewe, Sigi, Central Sulawesi have considerable potential for conversion of agricultural land. In practice, conversion of agricultural land to non-agricultural has frequently occurred in the village of Pombewe. Some agricultural land in the village Pombewe much in alihfungsikan into housing, but land is not included in the sustainable food agricultural land, due to be sustainable food agricultural land as well as the requirements and criteria to be set by the Regent.

Land that can be set into Sustainable Food Agricultural land must meet the following criteria:

1. Being in unity expanse of land that supports the productivity and efficiency of production;
2. Has the technical potential and suitability of land that is suitable, or rather according to the allocation of food agriculture;
3. Powered basic infrastructure; and / or
4. It has been used as food agricultural land.

Further land has been designated as agricultural land sustainable food protect-

ed and converted prohibited except in the public interest and natural disasters, and if broken, then there are administrative sanctions and criminal sanctions to be imposed on the mengalihfungsikan the land.

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