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## Status of Land Rights Built by BUMDES for Internet Connection Poles in Teluk South Purwokerto Village

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### ABSTRACT

*Land tenure rights are a set of rules regarding the land that is owned. The installation of poles carried out by BUMDES was built on individual land without licensing or socialization to the landowner. This became a conflict between the landowner and the BUMDES. This research aims to find out what is the status of land on which internet connection poles are built by BUMDES and to find out whether landowners can refuse not to build internet connection poles. The method used in this research is normative juridical legal research using Library Research techniques. The research findings reveal that the status of the land in its use is not in accordance with the concept of property rights. So that the owner of the land occupied by the internet connection pole can refuse based on the hierarchy of land tenure.*

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## I. INTRODUCTION

The drafting of Law No. 5/1960 on the Basic Regulation of Agrarian Principles (hereinafter UUPA) was not an easy process and went through a long process because prior to the enactment of UUPA, the sovereignty of land was not fully controlled by the Indonesian people because there were still many colonial heritage lands and colonial systems. So it is necessary to immediately make Agrarian Law which is a National Law that applies equally to the entire territory of Indonesia. The basis for the formulation of the Agrarian Law are: 1945 Constitution of the Republic of Indonesia (hereinafter written UUD NRI Tahun 1945) Article 33 paragraph (3) which reads: "The earth, water, and natural resources contained therein shall be under the control of the State and shall be utilized to the greatest extent possible prosperity of the people".<sup>1</sup> After the enactment of

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<sup>1</sup> Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia



the UUPA, the land tenure and management system in Indonesia has undergone significant changes. Where the use of land is more emphasized for the realization of the prosperity and happiness of the Indonesian people. Land is no longer just the property of a handful of people but the common property of the Indonesian Nation. Land must have a social function for all the people of Indonesia, meaning that land tenure prioritizes the common interest rather than private interests. So that finally the Unification of Land Law in Indonesia was truly realized with the enactment of the UUPA along with the Implementing Regulations and other regulations related to it.

The basic considerations for the enactment of the UUPA are: First, that in the Republic of Indonesia, where the structure of the people's lives, including the economy, is mainly agrarian, the earth, water and space as a gift from God Almighty have a very important function in building a just and prosperous society, second; that the agrarian law in force prior to the UUPA was partly structured based on the objectives and joints of the colonial government and partly influenced by it, thus contradicting the interests of the people and the state in completing the current national revolution and universal development, thirdly, that prior to the enactment of the UUPA agrarian law was dualistic, with the enactment of customary law in addition to the need for western law, and fourthly, that for the indigenous people of Indonesia colonial agrarian law did not guarantee legal certainty.<sup>2</sup>

Article 16 paragraph (1) of the UUPA regulates the hierarchy of individual land rights consisting of: First, property rights is the right to enjoy the use of an object with full sovereignty, provided that it does not conflict with the Law, public order and does not interfere with the rights of others; second, right to cultivate is the right to cultivate land directly controlled by the state, within the period specified in Article 29 of the UUPA, for agricultural, fisheries, or livestock companies (Article 28 paragraph 1 UUPA). Later, Government Regulation No. 40/1996 added the use of plantation companies; third, the right to build is the right to construct buildings on land that is not one's own for a period of 30 years with the right to build buildings on land that is not one's own Fourth, the right of use is the right to use and/or collect products from land directly controlled by the State or on freehold land or on managed land; Fifth, the right of lease is the right of a person or a legal entity to have the right to lease land, if he is entitled to use the land of another person for building purposes, by paying the owner a sum of money as rent; Sixth, the right to open land and collect forest products is the right to open land and collect forest products can only be owned by Indonesian citizens and is regulated by Government Regulation and by using the right to collect forest products legally does not automatically obtain ownership rights to the land.

Property rights are hierarchically higher than others so that it can be said that if there is a person or legal entity that uses the land without having permission from the owner, they are entitled to compensation. The consent of the land right holder is made in the form of an authentic deed in accordance with the provisions of laws and regulations and all forms of interference received by the land right holder are given compensation that can be valued in the form of money or other forms in accordance with the agreement with the party that will use and utilize the space on the land.

Teluk Village in South Purwokerto Subdistrict, Banyumas, which has a Village-Owned Enterprise (hereinafter written BUMDES). Has a business engaged in wireless networks intended for the people of Teluk village. The installation of the wireless network requires an internet network connection pole. The installation of the pole crosses individual land.

The installation of poles carried out by BUMDES was built on individual land without any licensing or socialization to the landowner. This became a conflict between the landowner and the BUMDES.

Based on the background of the problem, the author made a research on "The Status of Land Rights Built by the Internet Connection Pole by the Village-Owned Enterprises of Teluk Purwokerto Selatan Village".

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<sup>2</sup> The "Menimbang" section in the Basic Agrarian Law (UUPA), Law No.5 of 1960.

## II. RESEARCH PROBLEMS

- A. How is the status of the land on which the internet connection pole was built by Bumdes?
- B. How did the landowner who refused to build an internet connection pole act?

## III. RESEARCH METHODS

The type of research that will be used in this research is the Normative Juridical Research Method.<sup>3</sup> Legal research conducted by examining materials literature or data secondary only. Normative legal research is one type of legal methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of the research.<sup>4</sup> The normative juridical method can be complemented by the identification and classification of legal facts, to provide an overview of the Status of Land Rights Built by Internet Connection Poles by Village-Owned Enterprises.

The research specifications that will be used in this research are descriptive. Research that describes the state of the object under study, to be analyzed by combining legal theories and positive legal practices.

Descriptive method can be interpreted as a problem-solving procedure investigated by describing or describing the state of the subject or object of research (a person, institution, society, etc.) at the present time based on the facts that appear or as they are.<sup>5</sup>

## IV. RESULT AND DISCUSSION

### A. Status of the Land on which the Internet Connection Pole was Built by BUMDES

Land status is the position of land based on applicable law. Land status is important to know whether there is a legal relationship between the subject of the right and the object of the right and if so, the extent of the legal relationship that exists between the subject of the right and the object of the right. It is important to know whether there is a legal relationship between the subject of the right and the object of the right and, if so, the extent of the legal relationship that exists between the subject of the right and the object of the right.

For land with the status of land rights, for example, the depth of HMN's applicability is not as intensive as for land with the status of state land. In fact, even on land that has the status of state land, the depth of HMN's applicability also varies. Because there is also state land that already has physical control over it and there is also no physical control over the land.<sup>6</sup>

The establishment of internet network facilities in Neighborhood Teluk in 2023 was built by BUMDES. The internet network uses cables and poles as support, the poles crossing residents' land. In conducting licensing, the field technicians only asked permission from the Neighborhood Association without asking permission from the owner of the land occupied by the pole.

The increasing demand for internet network installation is one form of BUMDES aggressively installing the internet connection pole, without understanding that the land on which the support pole is installed internet the land is titled as freehold land. The position of property rights in the hierarchy of individuals is higher, so the installation of the pole was not appropriate if it involved only the Neighborhood Association without involving the landowner who legally owns the certificate.

A certificate is a copy of a land book issued by the National Land Agency (BPN) that has legal recognition. Registered individual land status has land ownership status in the form of property rights.

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<sup>3</sup> Zulfadli Barus, "Philosophical Analysis of the Conceptual Map of Normative Legal Research and Sociological Legal Research," *Journal of Legal Dynamics* (2013): 307-318.

<sup>4</sup> Benuf Kornelius and Muhammad Azhar, "Legal Research Methodology as an Instrument to Unravel Contemporary Legal Problems," *journal gema keadilan* (2020).

<sup>5</sup> Darmadi, *Educational and Social Research Methods* (Bandung: Alfabeta, 2014).

<sup>6</sup> Nazila Alvi Lisna and Yuriska, "Understanding Land Status", in *Land Law*, STPN 2014.

## **B. Actions of the Owner of the Land on Which the Internet Support Pole Was Built**

In the establishment of internet connection poles, there are many problems that occur in the field. Problems or obstacles experienced such as lack of counseling by the BUMDES, not approved by the landowner to establish an internet connection pole on his land.

The installation of internet connection poles in Teluk Village must apply for a pole installation permit from the land owner, RT, RW, Kelurahan to the Sub-district or according to local regulations. This refers to Article 15 paragraphs (1) and (2) of Law No. 36 on Telecommunications "For errors and or negligence of telecommunications providers that cause losses, the injured parties are entitled to file a claim for compensation to the telecommunications provider." (Article 15 paragraph 2). "The telecommunications operator is obliged to provide compensation as referred to in paragraph (1), unless the telecommunications operator can prove that the loss was not caused by its error and or negligence." So that people who are harmed by the installation of unlicensed internet poles will receive compensation money per pole.

Actions taken by landowners if they find that their land will be installed with internet connection poles can refuse by submitting to the technical team for the installation of internet connection poles so that the installation technical team can make observations to other places to install the poles. However, if the installation has occurred, the landowner can convey the complaints they have experienced regarding the establishment of the internet connection pole and negotiate how to form a settlement in the form of compensation or compensation and relocation of the internet connection pole by determining the establishment point together, namely the fulfillment of the rights of the landowner and the implementation of the establishment of the internet connection pole.

The negotiation method itself is an effort to resolve disputes by the parties without going through the judicial process with the aim of reaching an agreement to work together harmoniously and creatively, where the parties to the dispute face to face carefully in discussing the problems they face corporately and openly. Negotiation is the best way for both parties to resolve cases without having to go to trial. With negotiation, the community can channel and convey their complaints related to the existence of internet connection poles that harm them, ranging from disrupting daily activities to safety. With negotiation, the aggrieved community can make a mutual agreement regarding the determination of the point of establishment of the internet connection pole, which was previously done unilaterally without seeking approval from the landowner. Based on this method, the rights of landowners can also be protected.

## **V. CONCLUSION**

The status of the land on which the internet support poles are built has a legal relationship between the object and the subject that results in property rights. So that BUMDES cannot arbitrarily establish the pole on other people's land in other words, BUMDES must have prior permission from the landowner.

Actions taken by the landowner if he finds that his land will be established by an internet connection pole can refuse by submitting to the technical team for the installation of the internet connection pole so that the installation technical team can make observations to another place to install the pole.

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