

**ROLE OF DETERMINING THE PRICE OF LAND EXTENSION FOR PUBLIC
INTEREST PROVIDED BY APPRAISAL AND LAND OFFICE IN
COMPLIANCE WITH JUSTICE ELEMENTS**

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Abstract- The role of *appraisal* and Land Office in determining prices in land acquisition for the purpose of public interest, basically land acquisition has same understanding as land acquisition. Regulations regarding land acquisition are also regulated in land acquisition, the formulation of the problem in this study is the determination of price for compensation for land used for public interest and legal settlement methods in case of a dispute if the price for compensation is not in accordance with the agreement. The research in this journal is normative empirical, the type of data used in this research is secondary data, the way data is obtained using secondary data through library techniques, the approach used in this research is constitutional approach and case approach, the analysis used in journal writing This is an inductive data analysis, the results of research in this journal are a method of determining the price of compensation for land which will be the object of land acquisition by looking at market value. it will take 14 days after receiving the pricing that has been given by the *appraisal*.

Keywords : Land Acquisition for Public Interest, Compensation

I. INTRODUCTION

Land is an important element to achieve the welfare of community, therefore in accordance with Article 33 paragraph (3) of the Constitution of Republic Indonesia, the role of government is needed in carrying out development in order to achieve community welfare. As has been written above that in order to achieve the welfare of society and development in Indonesia, the role of government is very important in this matter. The government's efforts in the framework of national development are development for public interest, such as the construction of roads, expressways (toll roads), public settlements, traditional markets, canal construction, construction of city parks and so on. In carrying out development for the public interest, it is necessary to carry out the land acquisition process first.

The main problem in the law related to land acquisition or land acquisition over government programs, is polemic between the interpretation of definition "appraisal team", whether the appraisal team is an independent *appraisal* appraiser from the Public Appraisal Service Office (PASO) or is it a licensed but *appraisal*. these are civil servants and are licensed from the government itself. The compensation value assessed by the Appraiser is value at the announcement time of Determination of the construction location for public interest, and is a single value for the plot of land. Estimated land value,

describes the estimated value of compensation for land acquisition objects, including: land, space above land and underground, buildings, plants, objects related to land, and / or other assessable losses. In the event that there is no agreement regarding the form and / or amount of compensation, entitled Party may file an objection to the District Court no later than 14 (fourteen) working days after the Minutes of deliberation result are signed.

In this case the authors take two issues which tell about filing an objection to compensation for toll road builders as a means for public interest in the first problem, namely the construction of Serpong - Kunciran toll road as described in the Case Register Number: 333 / Pdt.G / 2018 / PN . Tng and regarding the second problem regarding the construction of Cibitung - Cilincing toll road as described in the Case Registration Number: 451 / Pdt.G / 2017 / PNBks

II. LITERATURE REVIEW

2.1. Land Acquisition for Public Interest

According to Boedi Harsono, land acquisition is a legal act in the form of releasing the legal relationship that originally existed between right holder and required land, by giving compensation in the form of money, facilities or other means, through deliberations to reach an agreement between the owner of the land and the party who needs it, meanwhile According to Gunanegara, the definition of land acquisition is the voluntary release of people's ownership of land and / or objects on it for the public interest.

Regarding the definition of land acquisition according to Presidential Regulation and those stated by Boedi Harsono and Gunanegara, all of them provide interrelated definitions if it is concluded from that definition land acquisition is an activity of providing land by relinquishing rights by providing appropriate and fair compensation to entitled parties however, there are differences in the definition of land acquisition mentioned by John Salindeho and Imam Koeswahyono, both of whom emphasized that land acquisition was intended for government interests.

2.2. Principles of Land Acquisition

The principles of land acquisition / exemption for public interest have been described in Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest, are:

1. Humanitarian Principle is that land acquisition must provide protection and respect for human rights, dignity and respect for every citizen and population of Indonesia in a proportional manner.
2. The Principle of Justice is: to provide guarantees for appropriate compensation to those who are entitled in the land acquisition process so that they have opportunity to lead a better life.
3. The principle of benefit is: the results of land acquisition are able to provide broad benefits for the interests of community, nation and state.
4. The principle of certainty is: to provide legal certainty for the availability of land in the process of land acquisition for development and to provide guarantees to parties entitled to get adequate compensation.

5. The principle of openness is that land acquisition for the sake of being implemented by providing access to the public to obtain information relating to land acquisition.
6. The principle of agreement is: in the land acquisition process it is carried out by deliberation of the parties without being based on an element of coercion to obtain a collective agreement.
7. The principle of participation is: support in the implementation of land acquisition through community participation, either directly or indirectly, from planning to development activities.
8. The principle of welfare is: land acquisition for development can provide added value for the survival of entitled parties and society at large.
9. The principle of sustainability is: development activities can take place continuously, continuously to achieve the expected goals.
10. The principle of harmony is: land acquisition for development can be balanced and in line with the interests of community and State.

According to Adrian Sutendi's opinion, the principles of criteria for the public interest can be described in more detail, including the nature of public interest, the form of public interest, and the characteristics of public interest. Such is the method of applying these three aspects so that the criteria for public interest can be formulated with certainty, fairness and can be accepted by the community.

2.3. How to Acquire Land for Public Interest

There is a difference between State land and land rights, namely in the control of land, in this case State land is controlled by the State which is not attached by any rights wherein State land can also be applied for by a certain right in accordance with the needs of ownership of the land, while land rights is land that is attached by certain rights determined by laws and regulations in which the land rights are owned by, in this case, is the party who owns the land rights. The method of obtaining the land, whether it is State land or private land, which must be seen is the status of the land to be acquired.

2.4. Land Acquisition Agency

Land acquisition institutions for development for the public interest are translated as intuition that is directly related to their respective fortopoli in the form of: Main Duties, Functions, Authorities, Obligations, Requirements, Prohibitions, Rights, *Responsibilities* and *Accountability* in carrying out their duties activities to organize land acquisition for development in the public interest. The following will describe each of those in charge of land acquisition activities for development for the public interest:

1. Public Interest Institution is an institution / organization that is given the authority to handle matters related to the interests of the State, the State and community which must be realized by the government and used as much as possible for the welfare of people.
2. Land Rights Institution is the right to land as referred to in Law Number 5 of 1960 concerning Basic Agrarian Principles and other rights to be stipulated by law.

3. The subject of Land Acquisition is a person or institution / organization authorized by law to carry out land acquisition.
4. The object of land acquisition is land, space above ground and underground, buildings, plants, objects related to land, or others that can be valued.
5. The Licensing Agency grants permits according to statutory provisions as a mechanism for land acquisition.
6. Land Appraisal Institution (*appraisal*) in Presidential Decree No. 36 of 2005, then separated the duties and authorities with Land Acquisition committee. Although Land Acquisition Committee must coordinate with Land Price Appraisal Agency / Team as one of the land acquisition mechanisms carried out by Land Acquisition Committee.

The new legal mechanism in land acquisition in accordance with Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest is the granting of authority to appraisals, in this case represented by Public Appraisal Service Office (PASO) to evaluate objects that will be subject to compensation. The results of this assessment are final, meaning that the government and / or agencies requiring community-owned land pay according to the results of assessment and close the deliberation space regarding the size and amount, limited to deliberation on the form of compensation.

The presence of appraisal as an institution that conducts assessments is considered more professional and objective in determining compensation in accordance with the considerations of Law Number 2 of 2012. This attributive policy is part of the new land acquisition mechanism for development in the public interest which in previous practices has always been carried out by Panitian of Land Acquisition as the mechanism in Presidential Decree No. 6 of 2005 and 36 of 2005 concerning Land Acquisition for Implementation of Development for Public Interest.

7. Licensing Agency (license)
The Indemnity Institution provides compensation that is equivalent to even more advanced (a better life), both material and immaterial to the former owner in the form of: compensation for land rights; building; plants and other objects related to soil.
8. Companion Team
The Implementing Agency is an agency requiring land to make plans for Land Acquisition for Public Interest in accordance with the provisions of laws and regulations Land Acquisition Planning for Public Interest as referred to is based on the Regional Spatial Plan and development priorities listed in the Medium Term Development Plan, Strategic Plan, Government Work Plan of the relevant agency. The implementing agency also has several parts, namely:

Regency / City Government as described in Presidential Decree Number 148 of 2015 Article 47 paragraph (1) The Governor can delegate the authority to carry out the preparation of Land Acquisition for development for Public Interest to the regent / mayor based on considerations of efficiency, effectiveness, geographical conditions, human resources, and other considerations, within 5 (five) working days from the receipt of the Land Acquisition Planning document.

9. The National Land Agency can explain the function of National Land Agency, which is to assist the President in managing and developing land administration, both based on the UUPA and other laws and regulations which include regulation of land use, control and ownership, management of land rights, measurement and registration. land, which is related to land issues based on the policies stipulated by the President.
10. Landfreeing and Power of Attorney are explained regarding the power of attorney (Last Giving), not the same as the power of attorney provided for in the Civil Code.
11. The Onteigening Institution (Revocation of Rights), Supreme Court chaired by the President. This institution is in charge after a Presidential Decree is made.
12. Community Objection Institutions, regarding community objections to the existence of project, compensation and other technical and juridical aspects can use litigation and non-litigation institutions. Litigation institutions related to objections registered via the court, while non-litigation objection agencies can go through mediation settlement;
 - a. Consignment Agency
 - b. Public Consultation
 - c. Discussion

1.4 Compensation

Compensation only arises when there is a release of land rights for both government and private sector. In the compensation there must also be an agreement based on the results of deliberations of the parties concerned.

According to Marmin M. Roosadijo, he is of the opinion that land acquisition or land acquisition required by the government by way of acquisition is widely used because this method is considered to be implemented more quickly, is also considered not to cause unrest, because this method of land acquisition is based on the need to reach an agreement.

III. METHOD

The research used by the author in this paper is Normative Empirical legal research which is a research conducted to study and analyze the positive legal provisions or laws currently applicable to cases that occur in social life, while the type of data used by the author is used as material for analyzing The research in this thesis is secondary

data is data obtained from a source collected by other parties or better known as library data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. In addition to using secondary data in this paper, the author also uses primary data, namely by conducting interview techniques to several informants who have the authority to provide opinions or views on issues being discussed and researched by the author in this paper.

IV. RESULTS AND DISCUSSION

4.1. Research Results Regarding Compensation Provided By *Appraisal* and Land Office Based on District Court Decisions

The author is interested in discussing this title because the author wants to discuss the role of determining the price of land acquisition for public interest provided by the appraisal and land office in order to fulfill the element of justice. The public interest in general must be implemented in line with the interests of the State and people.

1. Decision of the District Court Number 333 / Pdt.G / 2018 / PN Tng

The Petitioner is Komang Ani Susana who is the owner of land located in Paku Jaya Village, North Serpong District, Tangerang City, with an area of 18,545 m² (eighteen thousand five hundred and forty five square meters) filing a lawsuit to the District Court with Respondent I, namely the Head of Office Land of South Tangerang City and the Ministry of Public Works and Public Housing of the Republic of Indonesia as Respondent II. It turns out that Kunciran - Serpong Toll Road will be built on the land owned by the Petitioner, in which toll road construction crosses or passes through his land.

Early April 2017, a meeting was held at the South Tangerang City Land Office which was attended by the Petitioner together with Notary Bambang Suwondo, Commitment Making Officer (CMO) represented by Mr. Didit, the *appraisal* party represented by Mr. Hamid and Mr. Adi, the Respondent I was represented by Mrs. Asnawati as the Head of South Tangerang City Land Office, Mr. Gholib, namely the Head of Land Acquisition and Mr. Sukrisman as B Task Force Team, and several other South Tangerang City Land Office officials, at the meeting a list of compensation assessments for road construction plans was shown. the Kunciran - Serpong toll road which has been issued by the *appraisal* and price turns out to be in the document written different prices for the land which will be given a compensation value including the land owned by the Petitioner. Regarding the list of compensation values, the *appraisal* also divides the position of land into several parts, namely the front and back, with the following explanation of land parcel numbers 2,3,11,227, and 318 on the grounds that the owners of these lands are different, not over the name of only one person, namely land number 2 in the Petitioner's name, while the other is in the name of Soetarko. For the land parcels, a different price was also given, the land behind property owned by Soetarko was cheaper, while the land in front owned by the Petitioner was more expensive.

The judge decided to partially grant the Petitioner's objection, ordering Respondent I to pay and / or provide compensation to the Petitioner for land affected by Kunciran-Serpong toll road project with due regard to Article 1 number (1), Article 33,

Article 35 Law number 2 of 2012 concerning land acquisition for development for public interest and other relevant regulations with details:

1. Land number 2 with a compensation value of Rp. 14,075,000 / m² (seventeen million seventy five thousand rupiah) per square meter.
2. Land number 3 with a loss value of Rp. 7,000,000, - / m² (seven million rupiahs square meter).
3. Land Number 318 with a compensation value of IDR 2,931,000 / M² (two million nine hundred and thirty-one thousand rupiah) per square meter.
4. Land Number Field 11 with a compensation value of IDR 2,303,250 / M² (two million three hundred three thousand two hundred and fifty rupiah) per square meter.
5. Land Field Number 227 with a compensation value of IDR 2,303,250 / M² (two million three hundred three thousand two hundred and fifty rupiah) per square meter.

2. Decision of the District Court Number 451 / Pdt.G / 2017 / PN Bks

Purnama Halim as objection applicant I and Johannes Stanley as objection petitioner II, hereinafter referred to as objection applicants and both are land owners located in Buni Bakti Village, Babelan District, Bekasi Regency which are affected by land acquisition for the construction of Cibitung - Cilincing toll road. Land ownership has been proven by proving the documents owned by both of them. The Petitioners for objections filed a lawsuit at the District Court where the Head of Bekasi Regency Land Office was Objection Respondent, which was due to the objection Petitioners' disagreement over the compensation granted for the land owned by Objection Petitioner. The letter of objection request was received by the Registrar of Bekasi District Court on 23 August 2017, and has been registered at register Number 451 / Pdt / G / 2017 / PN Bks.

The court is of opinion that there is insufficient evidence if the determination of land price is based on the results of deliberation, this is evidenced by the absence of Minutes of Price Fixing Deliberation held on August 10, 2017. According to the court, it is not in accordance with the procedure as in Article 37 paragraph (2) of the Law -Law Number 2 of 2012 concerning Land Procurement for Development for the public interest and Article 72 paragraph (1), paragraph (2) and paragraph (3) of Presidential Decree Number 71 of 2012. Regarding this matter, the judge may decide as follows:

1. To cancel the compensation value issued by Respondent for objecting to the land parcels of objection applicants.
2. Determining the price of the plot of land belonging to the objection applicants located in Buni Bakti Village, Babelan District, which is used as the Cibitung Cilincing Toll road construction project by the Objection Respondent, is valued at IDR 860,000 (eight hundred and sixty thousand rupiah) per square meter.

Based on the two cases, it is concluded that they have same problem, where the assessment of compensation provided by *appraisal* for land acquisition is not in accordance with the element of justice. It is undeniable that development in each area that is carried out by the government and private sector is closely related to land acquisition as

a location for development. The purpose of land acquisition is a development aimed at the public interest.

The *appraisal* and National Land Agency also determine the value of land used as the object of land acquisition. is to convey the amount of compensation value to the Party whose land will be used as the object of land acquisition so that the explanation of this has same understanding in Chapter II page 24 which explains the role of land *appraisal* team (appraisal), which is an institution that conducts assessments considered professional and objectives in determining compensation in accordance with the regulations per Invitation Number 2 of 2012. This attributive policy is part of the new land acquisition mechanism for development in the public interest which in previous practices has always been carried out by the land acquisition. It is also explained in Chapter II page 26 regarding National Land Agency regarding its role is to manage and develop land administration, regulations per by laws and policies set by the President. If according to the author regarding the role of *appraisal* and National Land Agency both have functions in land acquisition for the public interest in terms of pricing objects to be used as land acquisition, there is also a difference, namely that the *appraisal* has a function or authority as a party. which gives a value to the price of land which will be used as the object of land acquisition, while the National Land Agency has the function or authority as administration or the party that informs the public regarding the replacement value.

Article 10 of Law Number 2 of 2012 states that land for public purposes can be used for development, namely national defense and security, public roads, toll roads, tunnels, railway lines, train stations, and railway operation facilities, reservoirs, dams, irrigation, drinking water channels, sewerage and sanitation, and other irrigation buildings, ports, airports and terminals, oil, gas and geothermal infrastructure, generation, transmission, substations, networks and distribution of electricity, networks government telecommunications and informatics, waste disposal and processing sites, government / regional government hospitals, public safety facilities, government / local government public cemeteries, social facilities, public facilities, and public green open spaces, nature reserves and cultural heritage, government offices / Regional / Village Government, arrangement of urban slum settlements and / or land consolidation, as well as housing for producing communities the status of lease, educational infrastructure or Government / Regional Government schools, Government / Regional Government sports infrastructure, public markets and public parking lots.

The infrastructure built by government is based on these two cases, namely the construction of toll roads which have the objective of public interest. Based on Article 10 of Law Number 2 of 2012, it can be concluded that the construction of toll roads is included in the category of activities for public interest, thus the land for the construction of toll roads is included in the category of land for public interest which in its development is aimed at the interests of nation. State and general public.

Based on the research results obtained by the author from interviews with sources from South Tangerang City Land Office regarding the role of Land Office in the context of land acquisition, namely in accordance with Article 52 to Article 54 of Presidential Regulation Number 71 of 2012 in conjunction with Article 6 of the Regulation of Head National Land Agency Number 5 2012, namely:¹

1. The Head of Land Office, in the event that as the Head of Land Acquisition Executive, Conducts Land Acquisition Preparation which contains a work plan at least an implementation funding plan, a time plan and implementation schedule, a plan for implementing personnel requirements, a plan for the need for implementation materials and equipment, an inventory and alternative solution inhibiting factors in implementation, and implementation monitoring system.
2. The Head of Land Acquisition Executive shall form a Task Force in charge of Inventory and Identification in the form of physical data on Land Control, Ownership, Use and Utilization, hereinafter referred to as Task Force A, Data of Entitled Parties and Land Acquisition Objects, hereinafter referred to as Task Force B;
3. Conduct research and inventory of land, buildings, plants and other objects related to land whose rights will be released or given up
4. Conduct research on the legal status of land whose rights are to be released or submitted and supporting documents.
5. Determine the amount of compensation for land whose rights will be released or handed over based on the appraisal results by *appraisal*
6. Provide explanations or counseling to communities affected by development plans and / or land rights holders regarding the plans and objectives of land acquisition in the form of face-to-face public consultations, print media, or electronic media so that all communities affected by the development plan can know and / or Land Rights Holders.
7. Hold deliberations with holders of land rights and government agencies and / or local governments requiring land in order to determine the form and / or amount of compensation.
8. Witnessed the implementation of the delivery of compensation to holders of land rights, buildings, plants and other objects on the land.
9. Making minutes of release or transfer of land rights.
10. Administer and document all land acquisition documents and submit them to competent parties.

The process of providing compensation for land owned by the community is carried out by Land Office, based on Presidential Regulation Number 72 of 2012 in conjunction with Regulation of the Head of Land Agency Number 5 of 2015, namely the provision of compensation in the form of money is carried out through banking services or in cash as agreed between entitled party and agency requiring land, at the request of the

¹ Hasil Wawancara dengan Pihak Kantor Pertanahan Kota Tangerang Selatan , tanggal 27 November 2020, Bapak Amrinif selaku Kasubsi Sengketa Konflik dan Perkara

chairman of land acquisition committee, the bank opens a savings account in the name of entitled party, the provision of compensation is carried out by institution requiring land based on validation from the chairman of land acquisition executor, validation of the provision of compensation as referred to in the format stipulated by Guideline Number 5 of 2015, the provision of compensation as intended shall be carried out simultaneously with the release of rights by the entitled party accompanied by the submission of ownership evidence of land rights to the executor of land acquisition, granting of cash compensation Although through banking institutions it is also proven by the receipt of compensation receipts made in triplicate, the provision of compensation and the waiver of rights is made of an official report on the granting of compensation and an official report on waiving of rights, signing an official report on the granting of compensation and an official report on the relinquishment of rights carried out simultaneously, the implementation of providing compensation which is documented by photo or by video.²

4.2. Analysis of pricing for compensation for land used for public purposes

Basically, land acquisition is also regulated in Regulations concerning land acquisition. So that everything that is regulated regarding land acquisition is also regulated in Law Number 2 of 2012 concerning Land Acquisition for Public Interest. According to Big Indonesian Dictionary, it explains that land acquisition is the revocation of rights to land and objects on it by the government to be used as public interest, the implementation of revocation of these rights is accompanied by providing compensation to people or parties who have rights to the land and objects previously, with way of the Act.

Land acquisition carried out based on both cases begins with deliberation between the land owner and party requiring the land, which essentially means that the initial land acquisition must be carried out by deliberation to reach an agreement. Based on this information, the writer has an opinion regarding this matter, the author agrees that before land acquisition is carried out, deliberation must be carried out first, this aims to reach an agreement, especially regarding the determination of the value of compensation, which is fair to all parties involved and with deliberation. It is important because this is a way out in determining the price determination to reach an agreement on the amount of compensation for the object to be used as land acquisition.

Deliberation is defined as a joint discussion with the intention of reaching a decision. Regarding this, it is strengthened by the provision of compensation in terms of land acquisition being a problem that usually hinders the acquisition of land that will be used as the object of land acquisition against this value the price is too low and cannot guarantee the welfare of the community in the future, which is like in two cases that the authors have reviewed in both cases there are parties who are disadvantaged in terms of providing the compensation value, namely the community, because of this value the price

is too low and not in accordance with the agreement, so the parties ultimately raised objections.

Basically, the determination of the value of land prices must be carried out by deliberation which will be used as the object of land acquisition which is an effective way of providing a sense of justice to the community if the price fixing is agreed upon because there is no coercion element. In the general provisions, compensation only arises when there is a release of land rights, whether used for the benefit of Government or used for the benefit of private parties. Based on the case described, the land used as the object of land acquisition has been released, this is based on the results of deliberation, and regarding this interest it is aimed at the government's interest in toll road construction. So that the assessment of compensation arises if there has been a release of land rights, this can be proven by the results of deliberation itself.

In the opinion of the author, the provision of compensation in this case is a process of replacing land that will be affected by land acquisition, which of this value has a proper and fair nature to the entitled parties, so that in this case the government must strive to provide justice in determining the valuation of land prices in development acquisition for the public interest so as not to cause mutual harm between the land owner and government or those who need land. This is intended so as not to harm each other between land owners and those who need land. Prior to the determination of compensation appraisal, efforts should be made in a balanced manner and carried out by means of deliberation with land rights holders whose land will be subject to land acquisition.

The basis and method of calculating compensation for land which is used as land acquisition for everything standing on it, namely in the form of buildings or plants on it, is assessed from the sale value estimated or calculated by government agencies or the land acquisition committee responsible for the said sector. , based on Article 63 paragraph (1) of Presidential Regulation Number 71 of 2012, that the assessment of compensation amount includes land, upper and lower ground space, buildings, plants, objects related to land, and other assessable losses.

If seen from the first case, namely regarding the determination of price for compensation for land used as the object of land acquisition based on the provisions of Law on the object of land acquisition, identification and inventory of the plot per plot of land is carried out then a large assessment of compensation for the object is one The land parcel covers one land parcel, and if there are several land parcels that want to be merged into one land parcel, the land parcels should first be merged. The compensation value assessed by the *appraisal* is value at the time of the announcement of construction location, the amount of compensation value is based on the results of assessment submitted by the Land Office through an official report, and this value is the basis of deliberation in determining the compensation value.

In the second case regarding the determination of compensation, but in the case of remaining land which cannot be used as its designation, the party entitled to the land has right to receive a full replacement of the value of land which is the object of land

acquisition. Regarding the amount of compensation value based on the results of *appraisal* assessment based on the Minutes of submission of the assessment results, this is assessed based on the land and buildings and plants standing on it, in addition to determining the value of compensation also based on the market price in the area that will be used. The object of land acquisition is proven by the existence of Law Number 2 of 2012 through Presidential Decree Number 71 of 2012, the basis of assessment is and the value of compensation is determined based on an assessment of the market price, not TOSV (Tax Object Selling Value), because the market value is higher than TOSV and in addition to that, the determination of compensation value is determined based on the results of nominative characteristics and field map data prepared by the Land Office.

Regarding this, the authors argue that the determination of compensation value for land which is the object of land acquisition must be assessed from the market price in the area at that time. There is one thing that should not be overlooked regarding the social function of land rights, in addition to the meaning that land rights must be used in accordance with the nature and purpose of the rights, so that land rights have benefits for the right holder and community, if concluded that there must be a balance between individual interests and public interests.

Regarding this matter, in fact, in determining the provision of compensation, the problem is the basis for determining the value of compensation, namely Tax Object Selling Value (TOSV) which is too low, not in accordance with the market price, so the government should in this case increase Tax Object Selling Value (TOSV). according to the price developments contained in the land area that will be used as the object of land acquisition. Regarding this, it is possible to minimize the occurrence of price fixing disputes in land acquisition.³

Regarding the assessment of compensation for land that will be used as the object of land acquisition, it is stated that the compensation will only arise when land rights are acquired for both government and private interests. In the provision of compensation, there must be an agreement between the party who needs the land and party who owns the land, the agreement must be based on the results of deliberation. In the deliberations, which should serve as the basis for determining the agreed compensation assessment, the executor of land acquisition must convey the amount of compensation to the entitled party as outlined in the minutes of agreement. However, if seen from two decisions in the implementation of the determination of compensation assessment, it is not based on deliberation, only the provision of an assessment of compensation in the form of an envelope given to land rights holders whose land is the object of land acquisition. The deliberation mechanism should be an important thing because through deliberation everything can be determined and there is an agreement because the purpose of deliberation itself is to reach a joint decision with the intention of reaching a joint decision and problem solving and deliberation as a means of finding a middle way in determining the amount of compensation.

Regarding the form of compensation can be given in the form of money, replacement land, resettlement, a combination of two or more forms of compensation, and other forms

³ Hamdi, *Op Cit*, hlm 13

agreed by the parties concerned, so that this is related to both cases, both of which are in the form of compensation. It is given in the form of money which is put in a closed envelope, but in this case the parties who own the land do not agree with it. In conclusion, the writer argues that in providing compensation in any form it is carried out based on the agreement of the results of deliberation itself, given that the deliberation aims to reach an agreement, especially in terms of providing compensation.

In the case reviewed by the author of the determination of compensation value seen from the location per plot of land, this is in accordance with Article 18 of the Regulation of the Head of National Land Agency Number 3 of 2007 regarding the determination of compensation value can be seen based on the location / location of land (strategic / lacking). strategic), status of land rights, land allocation, suitability of land use with the existing Regional Spatial Plan, completeness of facilities and infrastructure, other factors that affect land prices.

The determination of real value as the basis for calculating the price of land is intended so that the welfare level of former rights holder does not experience a decline. Because according to the author, in terms of determining the value of land price, it must have a fair character for all parties, especially for those who are going to relinquish their rights to the land, do not let the party experience a setback in their life after the land acquisition.

4.3 Legal settlement in the event of a dispute if the price for compensation is not in accordance with the agreement

In general, the land acquisition process is carried out in a deliberative manner by providing compensation from *appraisal* team (land price *appraisal* agency), each party agrees and is followed by the relinquishment of their land rights from the land owner to the party requiring the land. If this is related to the waiver of his / her rights, the party who feels that he has been harmed can file an objection to the local District Court.

One of the problems that arise regarding compensation is the regulation of word appropriate and fair, this has been confirmed in Law Number 2 of 2012 concerning Land Acquisition for Development for Public Interest along with other implementing regulations. The regulation has not explicitly stipulated the criteria for appropriate and fair compensation. Whereas article 1 point 2 of Law No.2 of 2012 mandates that land acquisition is by means of providing appropriate and fair compensation to entitled parties, whereas Article 2 provides guidelines so that in its implementation consider the principles of humanity, justice, agreement, welfare and sustainable.

In providing compensation for land that will be the object of land acquisition carried out by the government, it does not always run smoothly and it is not uncommon for many land owners to disagree with the compensation assessment, so according to Article 38 of Law Number 2 of 2012 concerning land acquisition for development for the public interest describes this matter which, if described as follows:

1. In the absence of an agreement regarding the form and / or amount of compensation, the entitled party may file an objection to the local district court within 14 (fourteen) working days after a deliberation to determine the compensation as referred to in Article 37 paragraph 1 is held;

2. The district court decides the form and / or amount of compensation within a maximum period of 30 (thirty) working days from the objection time is filed;
3. Parties who object to the decision of district court as referred to in paragraph 2 within 14 (fourteen) working days may submit an appeal to the Supreme Court of the Republic of Indonesia.
4. The Supreme Court is obliged to issue a verdict within 30 (thirty) working days from the receipt of appeal for cassation
5. The decision of district court / Supreme Court, which has obtained legal force, remains the basis for the payment of compensation to the party who submits the objection.

The above provision implies that the owner of land that will be used as land acquisition has the authority to refuse the amount of compensation if it is not according to what it should be, and in this case it occurred in the two cases that the author has described above.

In the two cases that the author has described, in terms of the settlement, if a party who has rights to the land does not agree to the assessment of compensation, that party can file an objection to the District Court, this is stated in article 28 of Law Number 2 Year 2012 in conjunction with article 5 of the Supreme Court of the Republic of Indonesia Regulation Number 3 of 2016 concerning the procedures for filing objections and depositing compensation to the district court in land acquisition for development for public purposes which is also explained in the decision that filing an objection must be within a grace period of at most 14 (fourteen) days after receiving *appraisal* results, because the results of *appraisal* were only received by Komang Ani Susana, in this case the applicant on April 11, 2018, then it is explained in the decision that the submission of *a quo* petition to the court is still within the grace period determined by the law.

Regarding the second case in which the owner of land rights does not agree with the assessment of compensation, the decision explains that referring to Article 28 paragraph 1 of Law Number 2 of 2012 in conjunction with Article 73 paragraph 1 of Peepres Number 71 of 2012 in conjunction with Article 5 Perma Number 3 of 2016, which requires the submission of objections to be submitted within 14 (fourteen) working days after the deliberations are held, so that in this case the filing of objections has not exceeded 24 (fourteen) days, because it counts accordingly by invitation to deliberation on August 10, 2017, so that it still meets the specified deadline.

V. CONCLUSION

The form of compensation given to the party who owns the land is in the form of money, apart from money it can also be in the form of replacement land, resettlement, a combination of two or more forms of compensation, and other forms approved by the parties concerned. The determination of real value as the basis for calculating land prices is intended so that the welfare level of former rights holder does not experience a decline. In fact, one of the problems arising from compensation is regulation regarding the word appropriate and fair, if the owner of land right does not agree on the value of

compensation, the owner of land right can file an objection or lawsuit to the Court. In his explanation, dispute resolution can be carried out in 2 (two) ways, the first is through the State Administrative Court or District Court and the second is the settlement of disputes outside the court, namely the parties agree to settle the dispute by way of deliberation. The author would like to thank the Faculty of Law, Pelita Harapan University and also to academic supervisor for this thesis, namely Dr. Agus Budianto, S.H., M.Hum. Furthermore, the authors also express their deepest gratitude to the sources who have made this paper possible and have provided their support and assistance over the years. I would like to thank Mr. Syafrollah.

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