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Eviction and civil compensation on riverbank land

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ABSTRACT

The eviction of land along the riverbank in Sukadana Village, Kasemen District, Serang City, has raised legal and social issues, particularly regarding the legality of government actions and the mechanism of providing civil compensation to affected residents. Communities that had occupied the land for decades lost their homes without transparent procedures or adequate compensation. This study aims to analyze the legal basis for eviction and civil compensation, as well as identify the obstacles encountered in its implementation. The research method employed is normative juridical, supported by empirical data analysis. Data were obtained through a literature review of legislation, legal literature, and court decisions, complemented by interviews with affected residents and relevant government officials. The findings indicate that the eviction process did not comply with the applicable legal provisions. Socialization, deliberation, and official notifications were not procedurally carried out. The promised compensation in the form of substitute land was not realized, and the government only offered relocation to public housing, which residents deemed inadequate. The main obstacles to policy implementation include limited regional budgets, regulatory changes from the central government, and political pressure with short-term development targets. In conclusion, a gap exists between legal norms and eviction practices in the field, resulting in violations of residents' rights. Therefore, improvements are needed in the mechanisms of eviction and compensation to ensure they are more transparent, fair, and in line with the principles of a state based on the law.

Keywords: eviction; civil compensation; riverbank; legal protection; Serang City.

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1. INTRODUCTION

Land plays an important role in the lives of Indonesian society, not only as a place of residence but also as a resource that supports economic, social, and cultural activities. Land also plays a vital role in human life on earth; it can be said that without land, human beings would face great difficulties in sustaining their survival (Hartono & Thamrin, 2014). In Indonesia, land holds a fundam, as stated in Paragraphed, Paragraphe 33 paragraph (3) of the 1945 Constitution, which states that the earth, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people (Republik Indonesia, 1945) Thus, the state has an obligation to manage land fairly, sustainably, and in accordance with the principles of social welfare.

One of the legal instruments in land management is the Right of Management, which grants authority to the central or local governments to regulate and utilize state land in accordance with spatial planning. However, in practice, the implementation of HPL often leads to conflict, particularly when the land has long been occupied by communities and has developed into a social settlement(Rongiyati, 2014). Such conflicts can be observed in Sukadana Village, Kasemen District, Serang City, where the local government carried out evictions against residents living on HPL-designated land. Within the national legal framework, eviction or land clearance must refer to Law Number 26 of 2007 on Spatial Planning and Government Regulation Number 21 of 2021 on the Implementation of Spatial Planning. These regulations emphasize that spatial planning, including eviction, must adhere to the principles of transparency, justice, legal certainty, and protection of community rights (Republik Indonesia, 2007). Nevertheless, in practice, evictions are frequently marked by a lack of socialization, limited transparency, and the absence of adequate compensation for affected residents (Warsudin, 2023).

Although the eviction was justified as being in the public interest, its implementation raised serious controversies. In many cases, the process was carried out without adequate socialization, fair compensation, or adherence to the proper legal procedures. Initially, the Serang City Government promised to provide substitute land as compensation, but this commitment was never realized. Instead, residents were only offered relocation to public housing, which was considered inadequate and unfair by many. This situation reflects a broader issue in Indonesia, where evictions violate procedural justice and residents constitutional rights.

From a legal standpoint, the obligation to provide compensation is firmly grounded in Indonesian law. Article 18 of the Basic Agrarian Law (UUPA) stipulates that land rights may be revoked for public purposes, provided that fair compensation is granted to the affected rights holder (Republik Indonesia, 1960). Nevertheless, in practice, such compensation frequently fails to meet the standard of fairness, creating a gap between legal norms and their actual implementation.

Previous studies have largely focused on the normative aspects of spatial planning or land acquisition for development purposes, but very few have specifically examined the implementation of evictions on government-owned land with an emphasis on the legal protection of affected residents. Therefore, this study is significant in filling this gap by analyzing the eviction process conducted by the Serang City Government from the perspective of Indonesian positive law and identifying the obstacles faced in its implementation.

This study aims to (1) analyze the juridical aspects of the eviction of government-owned land in Sukadana Village, Kasemen District, Serang City, and (2) identify the challenges encountered by the government in carrying out the eviction process.

2. METHODOLOGY

The method used in this study is known as normative legal research, which in English is referred to as normative legal research, and in Dutch as juridisch onderzoek. Normative legal research, dogmatic legal research, or legalistic research is classified in Anglo-American literature as legal research. This type of research is considered an internal study within the discipline of law (Marzuki, 2017).

This study employs a juridical normative and an empirical approach. The normative method examines statutory regulations, legal literature, and relevant court decisions, whereas the empirical method relies on field observations and interviews with affected residents and government officials (Soekanto, 1986). This approach aims to assess the conformity of eviction practices and compensation mechanisms with the applicable legal provisions.

3. RESULT AND DISCUSSION

3.1 Mechanism and procedure of eviction in Sukadana Village

The eviction of land in Sukadana village, Kasemen district, Serang city, was carried out by the Serang city government based on its claim of ownership over the riverbank land along the Cibanten River. Normatively, the eviction procedure refers to Law 26 of 2007 on Spatial Planning, Law 2 of 2012 on Land Acquisition for Public Interest Development, and Government Regulation 21 of 2021 on Spatial Planning Implementation. At the regional level, the legal basis is Serang City Regional Regulation Number 6 of 2011 on the Spatial Planning of Serang City 2010-2030.

Procedurally, eviction should go through several stages: (a) spatial planning in accordance with the regional spatial plan and the official development plan; (b) socialization and deliberation with affected residents, ensuring public participation in decision-making; (c) official written notification delivered to residents prior to eviction, as mandated in Article 38 of Law number 2 of 2012 and Article 69 of Law number 26 of 2007; and (d) provision of fair compensation or relocation, which may take the form of money, replacement land, or resettlement in public housing, as regulated in Article 36 of Law number 2 2012.

However, the findings of this study reveal that the Serang city government did not properly follow the procedure. Residents were not evicted. Instead, the mayor of Serang directly instructed residents to vacate their homes within one month, a practice that contradicted the principles of transparency and legal certainty (Huda, 2011).

Furthermore, the promised replacement land near the Sukaluyu village as compensation was never realized. The government ultimately only offered relocation to public rental flats, which the residents deemed inadequate. This demonstrates a discrepancy between legal norms and actual practices, resulting in the violation of residents' rights.

Therefore, the eviction in Sukadana village can be categorized as procedurally flawed, as it failed to comply with existing legal provisions, particularly concerning socialization, official notification, and the provision of fair and adequate compensation (Lira & Asrianti, 2025)

3.2 Legal protection analysis for affected residents

Legally, the land occupied by the residents of Sukadana Village in the Kasemen District is owned by the Serang City government. Consequently, residents do not hold formal land ownership rights, as they do not possess land certificates in accordance with Article 24 of Law No. 5 of 1960 on Basic Agrarian Principles. Nevertheless, the absence of formal ownership does not negate the rights of residents who have lived there for decades. Interviews with affected communities indicate that their long-standing occupation, tolerated by local authorities, has given rise to stable social structures. This grants them the right to legal protection, particularly regarding housing and legal certainty.

From the perspective of administrative law, eviction without written notification constitutes a violation of the general principles of good governance, especially the principles of legality and protection of citizens rights. Article 38 of Law number 2 of 2012 and Article 69 of Law number 26 of 2007 explicitly require that every eviction be preceded by an official notification.

Furthermore, the right to receive fair compensation is a critical component of legal protection. According to Article 36 of Law Number 2 of 2012, affected residents are entitled to compensation in the form of money, substitute land, or resettlement; however, the Serang city government's promise to provide replacement land was never fulfilled. Instead, residents were only offered relocation to public rental flats, which they considered unsuitable for their needs.

Therefore, the findings reveal a significant gap between legal norms and actual practices, resulting in the violation of residents' rights. Legal protection that should have been realized through official notification, public deliberation, and fair compensation was not implemented (Saniah, 2024). Consequently, the eviction in Sukadana village can be considered procedurally defective and inconsistent with the rule of law, which is intended to guarantee justice and certainty for all citizens.

3.3 Application of civil compensation in Eviction

In legal theory, the law is understood as an instrument to ensure peace and justice in society. However, in practice, eviction cases often reveal a gap between das sollen and das sein. Within this framework, civil compensation, which should serve as a protective mechanism for citizens' rights, is frequently neglected. According to Article 36 of Law Number 2 of 2012 on Land Acquisition for Public Interest, every affected resident is entitled to fair compensation, either in the form of money, substitute land, or relocation. Similarly, Law number 26 of 2007 on Spatial Planning emphasizes that social aspects must be considered in every government spatial policy. Nevertheless, the findings of this study reveal that in Sukadana village, the government's promise to provide substitute land as compensation was never fulfilled. Instead, residents were offered relocation to public rental flats, which they deemed inadequate due to their distance from workplaces and the risk of losing long-established social ties.

From the perspective of critical legal studies, this situation illustrates how law may function as an instrument of power, where formal procedures are carried out but the substantive essence of justice is overlooked echoing Satijipto Raharjo, law should not merely be a rigid set of written rules but rather a means of realizing substantive justice and upholding human dignity (Raharjo, 2012).

Therefore, the application of civil compensation in the Sukadana eviction case can be categorized as substantively flawed as it failed to fulfil the principles of justice, transparency, and legal certainty guaranteed by statutory regulations (Irawan et al., 2024).

3.4 Obstacles and problem in the eviction process

The findings reveal that the eviction process in Sukadana village faced multiple obstacles, both technical and socio-legal. The main issues include the following: (a) Recently implemented projects. Although the spatial planning of the area was included in the Serang City Regional Spatial Plan, its implementation was delayed for years when finally executed, and many technical and social aspects remained unprepared; (b) budget limitations. The Serang city government suffered from fiscal constraints, which hindered the provision of adequate compensation or relocation facilities. As a result, residents were displaced without proper civil compensation; (c) frequent regulatory changes from the central government. Continuous shifts in national regulations, such as the replacement of Government Regulation No. 15 of 2010 with Government Regulation No. 21 of 2021, created inconsistencies in regional implementation, particularly in drafting the detailed spatial plan; and (d) Political pressure and short-term development targets. Evictions were often executed hastily to meet bureaucratic performance goals or political agendas, such as the end of a mayor's term. Consequently, public participation was minimized, and decisions prioritized administrative objectives over residents' rights and interests.

These challenges highlight the gap between normative law and practical implementation. While government discourse emphasizes development, the actual process shows insufficient attention to legal safeguards and the social welfare of the affected communities.

3.5 Residents' response and perception of compensation

In the process in Sukadana village, the Serang city government, through the public works and spatial planning office, emphasized that clearing the Cibanten Riverbank was part of the regional spatial plan. From the government's perspective, residents occupying the riverbank lacked legal standing, and thus, compensation was considered a social policy rather than a legal obligation.

Initially, the government promised replacement land as compensation; however, this commitment was never fulfilled. Instead, the government redirected residents to relocate to public rental flats without issuing formal notifications or holding comprehensive deliberations with the affected communities.

Residents' perception of rental flats was largely negative; for them, the flats represented not only a change in residence but also a disruption of the entire socio-economic fabric they had built over decades. The distance from workplaces such as markets, fishponds, and farmland raised concerns about the loss of living in flats, which was perceived as higher, and residents feared the erosion of long-standing neighborhood bonds.

Thus, compensation policies that disregard social and economic dimensions create new problems rather than resolving existing conflicts. This reflects the government's failure to treat residents as rights-bearing subjects with dignity, reducing them to mere policy objects.

4. CONCLUSION

The implementation of land eviction along the riverbank in Sukadana Village, Kasemen District, Serang City, has not fully complied with applicable legal provisions. Processes such as socialization, public consultation, and official written notification were not carried out, the principles of good government were not fulfilled, and fair civil compensation was not provided in a procedural and transparent manner. This indicates a gap between normative regulations and factual implementation in the field, which may result in violations of residents' rights.

The implementation of land eviction in Sukadana Village faced various structural and operational challenges. First, the spatial planning and development project was in its initial stage, leaving many technical and social aspects unprepared, including the handling of affected residents. Second, the limited regional budget became a major constraint, resulting in the government's inability to provide adequate compensation or proper relocation facilities for residents, with the project only being realized in 2025. Third, frequent changes in regulations issued by the central government caused confusion and inconsistencies in local implementation, particularly in drafting detailed spatial plans. Fourth, political pressure and performance targets imposed on the local government forced the eviction to be carried out hastily without adequate participatory planning, in order to meet short-term development goals within a specific timeframe, especially towards the end of a regional head's term of office or before the submission of an annual performance report to the central government.

Ethical Approval

This study did not require ethical approval as it did not involve human subjects directly.

Informed Consent Statement

Informed consent was not applicable because the study did not involve individual participants.

Authors' Contributions

All stages of the research, including proposal preparation, data collection, analysis, and manuscript writing, were carried out by the author.

Disclosure Statement

The author declares no conflict of interest in this study.

Data Availability Statement

The data used in this study are available from the author upon reasonable request for academic purposes.

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Notes on Contributors

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Firmansah is a law student at University Bina Bangsa, Indonesia. His research focuses on agrarian law, spatial planning, and legal protection for communities affected by development. His academic interest includes issues of eviction, the right to adequate housing, and the implementation of good governance principles in public policy.

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