

The Issues with Land Use in Indonesia for Investment Purposes

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Abstract

In order to address various challenges and dynamics of societal changes, especially in the rapidly developing economic field, the problematic issue of legal regulations, particularly related to land use for investment purposes in Indonesia, is currently not adaptive or can be considered significantly out of date. The unclear status of land ownership rights used for investment purposes, ongoing inequalities and injustices in land control, ownership, use, and utilization, the unresolved problem of land misuse and conversion, and the predominance of speculative activities in land ownership administration by parties who are not the true landowners are all contributing factors to this situation. To give investors investing in Indonesia legal certainty, legislative adjustments to control property use for investment reasons and severe law enforcement against speculative land ownership acts must be made.

Keywords: Investment, Land use, Land rights

1. Introduction

The following is the basic premise to promote research on the key topics in the aforementioned theme: First, Indonesian civil law, particularly that pertaining to land use for investment purposes, is at present either not adaptive or can be viewed as severely out-of-date in response to numerous problems and dynamics of societal changes, notably in the quickly increasing economic sphere. Second, the implementation of current economic development (Lisdiyono, 2004) entails the conversion of land, which is the shift in land use to encourage investment (Budi, 2021). Third, expanding land needs and rapid population increase frequently create conflicts between land use interests and misalignments between land use and intended purpose (Khadiyanto, 2005).

It is further highlighted by the restrictions and shortage of land for investment reasons as well as the rising economic value of such land in Indonesia (Teja, 2015) as the cause of land use disputes. The expansion of investment activities has led to a rise in land ownership disputes, including those involving forestry, mining, and agricultural/estate land, particularly after Indonesia implemented regional autonomy (Muhdar, 2012). Conflicts over land usage are typically brought on by the legal status of land ownership used for investments, the unequal distribution of land for investments, and government regulations that are seen as part of investor protection (OECD, 2023). In this context, it is crucial to look at civil law in the area of land, particularly Law No. 5 of 1960 on Basic Agrarian Principles, which governs land rights. This legislation also governs systems of land ownership and exploitation for investment purposes (Vanderpuye et al., 2020). Can it guarantee legal protection and give investors confidence to make investments in Indonesia?

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2. The Issue at Hand

Has civil law effectively addressed land utilization for investment objectives, considering its role in regulating relations between individuals and preserving both private and public interests?

3. The present discourse aims to engage in a discussion on the given topic.

3.1 The concept of land utilization for investment purposes

3.1.1 The concept of land rights in land utilization, as outlined in agrarian law

Prior to further exploration of the notion of land management within the context of agrarian law in Indonesia, it is imperative to establish clear definitions of the terms "land" and "soil." The term "land" encompasses the terrestrial surface of the planet, encompassing many elements such as soil, rocks, minerals, and confined liquids (Brocx & Semeniuk, 2007; Dixon, 2009). These components include inherent properties and functionalities that can be harnessed and employed by human beings (Arsyad, 1989). Soil, conversely, pertains to the uppermost layer of the Earth's surface (Language Center, Department of National Education, 2008). Based on this concise description, it may be inferred that the concept of land encompasses a wider scope than that of soil. However, the primary objective of this study is to examine the exploitation of the earth's surface, specifically in the context of soil. In the legal framework of land law, soil assumes a pivotal role in human existence as it governs the establishment and perpetuation of legal associations and undertakings, both at an individual level and in its ramifications for others. Therefore, within the scope of this research, the term "land" pertains to the soil as delineated in Law No. 5 of 1960 on Fundamental Agrarian Principles (UUPA), which explicitly characterizes land as the surface of the Earth.

The state possesses the jurisdiction to govern the legal interactions between humans (including both natural persons and legal entities) and the land (Utami and Sarjita, 2021). According to this authoritative source, the state possesses the ability to bestow land rights upon society, so enabling them to engage in development, utilization, and enjoyment of said land in line with the existing legal framework and rules. The ultimate objective of this endeavour is to foster prosperity and well-being among the populace. The constitutional principle in question is articulated in Article 33, paragraph (3) of the 1945 Constitution. This provision outlines the fundamental policy regarding the management and exploitation of natural resources, specifically stipulating that "the State shall exercise control over land, water, and the natural resources therein, and endeavour to maximize their utilization for the benefit of the populace".

The understanding of Article 33 paragraph (3) can be analyzed from two perspectives: According to Mahfud (2006), the state exercises control over land, water, and natural resources, with the aim of regulating them to the fullest extent possible. This control is implemented with the objective of fostering the prosperity of the populace. The aforementioned concept is further expounded upon in Article 4 paragraph (1) of the UUPA, wherein it is stipulated that: "In accordance with the state's prerogative of control as delineated in Article 2, diverse forms of land entitlements, referred to as land rights, may be granted to and possessed by individuals, either independently or in conjunction with others and legal entities.

The various types of land rights that can be conferred by the state to persons, as outlined in Article 16 in conjunction with Article 53 of the UUPA, encompass ownership rights, the right to engage in cultivation, the right to construct, the right to utilize, the right to lease land for construction purposes, and the right of management. One further attribute of land rights is their inherent social role. The objective of this regulation is to impose restrictions on the private ownership of land with the most extensive and comprehensive rights, so differentiating land ownership rights from other forms of land rights. Nevertheless, it is imperative that property ownership rights are not only utilized for the proprietor's individual interests, particularly when such actions have detrimental effects on society. Therefore, it is imperative to prioritize the harmonization of individual and public interests when considering the utilization of property ownership rights.

Another distinctive component of the Uniform Urban Property Act (UUPA) is the stipulation that all land rights must serve a social purpose. According to Tukgali (2010), the purpose of this condition is to establish a clear distinction between land ownership rights and other types of land rights. While property ownership rights are indeed robust and comprehensive, it is imperative to recognize that their utilization should not be exclusively driven by the proprietor's self-interest, particularly when it has detrimental consequences for society. Therefore, it is imperative to prioritize the alignment of individual and society interests when considering the utilization of property ownership rights.

One notable characteristic of land ownership rights is their ineligibility for foreign ownership, with the government establishing specific legal organizations and their corresponding restrictions for property ownership. The imposition of a stringent restriction on land ownership can be deemed as a logical measure. The potential consequences of granting excessive land ownership rights to foreigners or foreign legal entities in Indonesia may lead to a scenario where foreign individuals and entities gradually acquire a dominant position in land ownership within the country (Nur, 2018).

The limitation on land ownership by foreigners in Indonesia does not imply the intention to alienate or discriminate against them. This constraint aligns with the ideology of agrarian nationalism. Non-citizens are permitted to possess land, albeit not in the capacity of outright ownership.

3.1.2 The Implementation of Land Utilization for Investment and its Implications on Land Rights

In the Indonesian setting, the agrarian laws play a crucial role in ensuring secure land rights to facilitate the implementation of investments and support the overall progress of the nation. The rules indirectly confer land rights within the framework of investment execution, encompassing both domestic and foreign investors. In the context of property acquisition for investment objectives, the land laws do not discriminate between domestic individual investors or legal entities (Kasimbazi, 2017). Both categories are afforded equal rights, including land ownership. Nevertheless, in the context of foreign investors seeking to utilize land for investment purposes in Indonesia, the legal framework provides alternative land rights arrangements that extend beyond complete ownership.

In order to engage in land acquisition for investment purposes in Indonesia, foreign individuals and foreign legal companies must adhere to specific criteria and regulations as stipulated in Articles 42, 45, and 55 of the Indonesian Agrarian Law (UUPA). Both Article 42 and Article 45 of the relevant legislation address the entitlements of land use rights (Hak Pakai) and lease rights (Hak Sewa) respectively. These provisions outline that, in addition to Indonesian citizens, these land rights can also be extended to foreigners who are residing in Indonesia, Indonesian legal entities operating within the country, or foreign legal entities that have established representation in Indonesia. In accordance with Article 55, paragraph (2) of the UUPA, it is specified that the granting of rights to use and rights to build is limited to legal entities with foreign capital, either partially or entirely, only if mandated by legislation governing national development planning.

The regulations pertaining to the right of use (HGU), the right to construct (HGB), and the right of use are additionally governed by Government Regulation No. 40 of 1996, which addresses the Right to Use, Right to construct, and Right of Use of Land. HGU refers to the legal entitlement granted by the state for the direct cultivation of land, specifically for agricultural, plantation, fisheries, or cattle purposes. In accordance with the provisions outlined in Article 2 of Regulation 40/1996, individuals who possess Indonesian citizenship, as well as legal companies that have been duly created under Indonesian law and maintain their operations within the territorial boundaries of Indonesia, are deemed qualified to obtain the right of land use (HGU). According to Regulation 40/1996, it is mandated that the minimum land area eligible for the grant of HGU is 5 hectares, while the maximum allowable amount is 25 hectares.

The HGU ownership has a maximum lifespan of 35 years, which has the potential to be extended for an additional 25 years. Upon the conclusion of the Homegrown Unit (HGU) period and its subsequent

extension, the individual possessing the entitlement may proceed to seek an extension or renewal of the HGU pertaining to the identical plot of land. The submission of applications for extensions or renewals should occur at least 24 months prior to the expiration of the HGU period. In the context of investing, individuals have the option to concurrently submit requests for extensions or renewals of HGU (Holding and Usage Rights) alongside the payment of the designated entry fees during the initial application process. In accordance with Article 11 of Regulation 40/1996, if the entrance fees have been fully paid at the first application for the HGU, an administrative cost will be imposed for the extension or renewal of the HGU. The specific amount of this fee is established by the Minister, subject to agreement from the Minister of Finance.

Just like HGU, HGB can also be conferred upon legal entities that have been constituted in accordance with Indonesian legislation and are located inside the territory of Indonesia. The HGB (German Civil Code) enables individuals to legally develop and possess buildings on property that they do not own, irrespective of whether the land is owned by the government, subject to management rights, or privately owned. The registration of HGB (Hak Guna Bangunan) on state land or land under management rights is a mandatory requirement at the land office. Once registered, HGB attains formal recognition. In order to establish ownership, it is imperative that the holder of an HGB (Hak Guna Bangunan) is furnished with a certificate of land rights. According to Agus (2017), the process of private property ownership under the HGB system necessitates the execution of a deed by the property Deed Officer (Pejabat Pembuat Akta Tanah) and subsequent registration at the land office.

The grant of HGB (Right to Build) on state-owned land and land under management rights is limited to a maximum duration of 30 years, with the possibility of extension for an additional 25 years. Upon the conclusion of the HGB period and its subsequent extension, the previous holder is eligible to submit an application for the renewal of the HGB on the identical parcel of property. The submission of applications for extensions or renewals should occur at least 2 years prior to the expiration of the HGB or its extension. According to Regulation 40/1996, the maximum period of HGB ownership is stipulated to be 30 years. According to Agus (2017), the renewal of HGB can be facilitated through the establishment of a new HGB, which requires an agreement between the land rights holder and the HGB holder.

Foreign investment in land utilization can also be acquired through the legal provision of the right of use, as outlined in the UUPA (Law on Agrarian Principles) and Government Regulation No. 40 of 1999. Both regulations clearly specify that non-citizens, whether they are individuals or legal entities, are eligible to possess the right of use. In essence, the authority to utilize property can be conferred either by the government or by the land rights holder, who may be an individual or a legal entity possessing private land ownership. The concept of the right of use encompasses the application of this entitlement to many types of land, including state-owned land, land subject to management rights, and privately owned land.

Over the course of history, the right of use has emerged as the prevailing form of land tenure within societies. The aforementioned phenomenon can be attributed to the increasing demands of the populace and its pragmatic utility. Numerous advantages can be obtained from property through the entitlement of usage, including but not limited to agricultural and plantation endeavours. Hence, one viable approach to enhance land usage for investment objectives is leveraging the exploitation of land under the right of use.

3.2 Disputes pertaining to land rights in the context of land utilization for investment objectives.

The concept of land rights can be comprehended from two perspectives: possession and ownership. These components comprise the legal connection between humans and land. The concept of possession encompasses various forms, including individual possession, governmental possession, and possession by private legal entities. The concept of ownership dictates the many manifestations of entitlements (Christian Lund, 2020). Therefore, the ownership of land is categorized into three distinct rights: customary rights (hak

ulayat), individual rights, and legal entity rights. Indigenous communities possess customary rights characterized by a communal ownership structure.

The engagement in investment activities that include the allocation of land sections without adequate planning can result in the establishment of ambiguous land possession systems and contribute to the emergence of conflicts in land utilization. The existing legal framework pertaining to investments fails to sufficiently protect the rights of individuals in relation to land possession, resulting in disputes between communities and either the government or investors who utilize the property for investment endeavours. In certain instances, conflicts may also emerge among diverse communities, often pertaining to disputes over property (ADB, 2013). The problems at hand have evolved beyond being mere divergences in beliefs or viewpoints, and have instead transformed into tangible disputes pertaining to the ownership status of the land being employed for investment endeavours.

In most cases, the initiation of these disputes can be attributed to governmental regulations pertaining to the intersection of land utilization. The conflicts are additionally linked to speculation over the status of property ownership, conducted in an unlawful manner by parties aiming to illegitimately obtain land.

3.2.1 The conflict arising from the issuance of land use permits that overlap in their scope and jurisdiction.

The occurrence of these disputes is frequently instigated by the overlapping issuance of land use permits for investment activities pertaining to the management of natural resources, including but not limited to forestry, mining, agriculture, and plantation land. The occurrence of land ownership disputes has been noted to have risen since the introduction of regional autonomy in Indonesia, as stated in the Kaltim Governor's LKPJ Document of 2011. The conflicts typically arise due to the legal status of land and natural resource ownership, inequitable distribution of resources, government actions regarded as favouring investors, and the adverse environmental consequences or pollution resulting from specific operations.

Given the prevailing conditions, it is imperative to conduct a comprehensive reassessment of the current legal frameworks in order to adequately govern land ownership systems within investment endeavours. This reassessment is crucial for safeguarding the interests of all stakeholders involved and for devising viable resolutions to mitigate diverse land ownership disputes. The legislative regulations pertaining to land rights for investment objectives, specifically in the Plantation sector through the Right to Cultivate (HGU) and the Mining sector through Mining Rights, are accessible. The regulation governing the interaction between mining authority and land rights in the context of mining activities may be found in Articles 25 to 27 of Law No. 11 of 1967, which pertains to the fundamental provisions of mining. This law has been subsequently updated by Law No. 4 of 2009, which specifically addresses minerals and coal mining. Based on the aforementioned legislation, in cases where land rights already exist within the jurisdiction of mining authority, it is obligatory for the mining holder to furnish compensation to the landowner.

There is a frequent occurrence of overlapping land permits between mine and plantation industries. The occurrence of such overlapping comes when local governments grant new business permits for specific land without previous cooperation with the central or provincial government to verify the presence of current permits for other enterprises on the same area. According to a study conducted by Ismail and Anjarwati (2015) it has been observed that there exists a significant number of licences, estimated to be at least 6,000, which overlap between oil palm plantation and mining activities. This overlap has resulted in conflicts that ultimately necessitate legal intervention.

The aforementioned circumstances demonstrate that there is an existing overlap in the legal framework pertaining to land utilization for investment purposes, specifically in relation to the regulations governing land utilization in different sectors such as mining, plantation, forestry, agriculture, and other relevant industries. Consequently, this overlap has implications for the issuance of permits for land utilization in business activities.

An instance of conflict arising from the overlapping of land use permits can be observed in the issuance of two decrees. The first decree, known as Decree of Kutai Kartanegara Regent Number 540/3133/IUP-OP/MB-PBAT/X11/2010, was issued on December 14, 2010. This decree approved the Mining Business License for Production Operations granted to PT. Trisensa Mineral Utama, which encompassed an area of 3,414 hectares in Sanga-Sanga. The second decree, identified as Decree No. 40/1691/IUP-OP/MB-PBAT/X11/2009, was issued on December 1, 2009. This decree approved the Mining Business License for Production Operations granted to PT. Adimitra Baratama Nusantara, which covered an area of 2,990 hectares in Sanga-Sanga. Nevertheless, the granting of these permissions has resulted in detrimental consequences for PT. Perkebunan Kaltim Utama I, a company that had previously acquired authorization to utilize the land for cultivating palm oil. The aforementioned choices have given rise to a controversy involving PT. Perkebunan Kaltim Utama I, the Kutai Kartanegara Regent, and PT. Trisensa Mineral Utama, resulting in the initiation of judicial proceedings.

The aforementioned circumstances demonstrate that there is still an overlap in the legal framework governing land utilization for investment purposes, particularly in the regulatory framework that governs land utilization across different sectors, including mining, plantations, forestry, agriculture, and other sectors. This overlap subsequently impacts the jurisdiction responsible for granting permits for land utilization in the context of business activities.

3.2.2 *Disputes Arising from Land Mafia Activities*

The considerable market demand for property as an investment can potentially instigate speculative behaviours in land ownership. When individuals have the view that land values will experience a sustained upward trajectory, they tend to engage in property ownership as an investment strategy, driven by the expectation of capitalizing on future price appreciation. Land speculation refers to the practice wherein individuals or collectives assume the financial risk associated with the acquisition or control of land, with the explicit purpose of subsequently selling it at a more lucrative price, as opposed to engaging in its productive utilization or development. The desire for land for investment and the subsequent speculation on land ownership can be attributed to several factors. One such factor is a robust economic growth rate, which prompts investors to perceive land as a desirable asset due to its tendency to appreciate in value alongside economic expansion. Concurrently, the accessibility of land for investment is constrained as a result of the swift expansion of urban areas or rules that restrict land utilization. The phenomenon described can lead to a rise in land prices as a result of heightened demand and constrained supply.

The presence of significant infrastructure developments, such as airports, toll highways, or shopping complexes, has the potential to augment the value of surrounding land, hence inciting speculation among investors. The phenomenon of population movement to urban regions or alterations in urban spatial patterns can lead to an escalation in land demand and contribute to the phenomenon of speculation. Within this particular context, a multitude of speculative behaviours pertaining to the ownership of land emerge, giving rise to problems that necessitate resolution through legal mechanisms, such as litigation.

Several instances of land mafia charges that have been brought before the court involve incidents of falsifying land certificates. An illustrative example can be observed in a legal matter pertaining to the issuance of a Land Ownership Certificate (SHM) bearing the number 4931/Cakung Barat, registered under the name of Abdul Halim, situated in the region of Cakung, East Jakarta. This certificate encompasses a land area measuring 7.78 hectares. PT Salve Veritate, the rightful proprietor, initially experienced astonishment and raised objections upon discovering that their land had become embroiled in a conflict as a result of competing claims made by other parties. The court ruling rendered by the East Jakarta District Court, with the case number 441/Pdt.G/2021/PN.Jkt.Tim, determined that Harto Khusumo is the lawful proprietor. Subsequently, the matter was subjected to an appeal process. In the interim, the executives of PT Salve Veritate, namely Benny Simon Tabalajun and Achmad Djufri, were formally designated as suspects in a legal matter pertaining

to the falsification of land documents. Subsequently, they had a trial at the East Jakarta District Court (Tim Editorial Rumah.com, 2022).

In a separate instance, the 2020 Alam Sutera Land Dispute involved an individual identified by the initials D, who purportedly engaged in a conflict with another individual identified by the initials M regarding a 45-hectare land parcel situated in Alam Sutera. In April 2020, Party D initiated a civil litigation against Party M with regards to the issue of land ownership, notwithstanding the presence of existing residents and commercial entities inhabiting the land. In May 2020, a collaborative effort was undertaken by individuals identified as M and D with the aim of resolving and facilitating mediation for a land dispute matter. Following the attainment of a settlement, the land mafia syndicate petitioned the court for the implementation of the land transfer in July of 2020. The implementation of this execution measure encountered opposition from both people and companies, who subsequently filed their concerns to the Metropolitan Tangerang City Police. The examination yielded findings that discredited the assertions of ownership over the 45-hectare parcel of land.

These two instances exemplify the exploitation of the robust demand for investment land and the substantial value of land as a financial asset by forces associated with land mafia, with the aim of maximizing their financial gains. Unethical actors take advantage of circumstances and gaps in the ambiguous and insufficient legislation pertaining to land ownership, engaging in the manipulation of land ownership records to acquire unjust benefits. It is imperative to address these issues by implementing effective and decisive law enforcement measures in order to foster investor confidence and encourage investment in Indonesia.

3.3 Optimizing Land for Investment Purposes

Investment plays a pivotal role in bolstering the economic growth of a nation. Hence, within the framework of economic development policies aimed at bolstering domestic development initiatives, the government endeavours to enhance both direct and indirect domestic investments. The acquisition and ownership of land are fundamental components of investment endeavours, making it imperative to have a robust legal framework that ensures stability in property rights. In order to appeal to potential investors, it is imperative to provide a favourable investment environment that encourages the influx of new capital from both domestic and international sources.

Investment is a crucial factor in driving economic growth, since it has a significant impact on numerous dimensions of the economy, resulting in a multiplier effect (Hapsari, 2006). The arrival of an investment in a country yields significant ramifications for the country's economic well-being, including factors such as land utilization for investment purposes, labor demand, government revenue derived from profit sharing, taxes, and additional fees. Given the potential advantages associated with investments, governmental entities exert significant efforts to enhance domestic investment levels, with the aim of stimulating general economic expansion and ameliorating the broader economic landscape. The enhancement of the investment climate aims to mitigate investment obstacles, as these obstacles significantly influence investors' perceptions and decisions regarding investment opportunities inside a specific nation. Several impediments are frequently encountered in various contexts, such as ineffective government bureaucracy, limited infrastructure, tax restrictions, corruption, human resource quality, and policy volatility.

The allocation of land for investment purposes is among the constraining factors that may deter potential investors from engaging in economic activities within the nation. The primary impediment to infrastructure and property development is in the status of land rights, notably within the framework of land acquisition. The acquisition of land is a significant obstacle to investment realization in Indonesia, resulting in the distribution of only half of the available credit (BKPM, 2014). The enhancement of the investment climate can be achieved by the implementation of streamlined land acquisition procedures.

Land, as a capital asset, has become a crucial economic resource and is frequently a topic of speculation. The legal certainty of land as a capital asset is a crucial factor that investors must take into account when deciding to participate in investment activities (Arianto, 2011). The implementation of robust land rights protection measures inside the nation is expected to generate significant economic benefits, including greater investment inflows. Consequently, this is anticipated to foster the establishment of numerous employment possibilities, bolster foreign exchange revenues, and enhance overall societal well-being. The achievement of sustainable development is contingent upon the establishment of land rights protection, as it is only through such measures that a limited number of individuals will be motivated to partake in enduring investments. Hence, the establishment of land rights legitimacy is an essential prerequisite for fostering an investment environment centered around land (Machfudz, 2011).

To ensure the authenticity of land rights in the context of land usage for investment objectives, it is imperative to undertake a series of measures. These measures go to both property and asset investments. One crucial aspect involves the mitigation of regulatory and jurisdictional overlaps pertaining to the issuance of permits for land utilization in commercial endeavours.

3.3.1 The harmonization of land law regulations refers to the process of aligning and standardizing the various legal provisions and frameworks related to land ownership, use, and management.

The function of law, particularly private law governing the national land system, becomes crucial in addressing diverse interest-related issues pertaining to land use for investment. The existing national land system should possess the capacity to ensure guarantees, legal clarity, and legal benefits for all involved parties. Within the realm of scholarly discourse surrounding the intersection of law and economic development, it is widely acknowledged that law assumes three primary functions: (1) serving as a mechanism for establishing order, (2) functioning as a means of achieving equilibrium, and (3) acting as a catalyst for preserving harmonious relations among diverse interests.

Hence, the fundamental objective of aligning legal frameworks pertaining to land ownership and utilization for investment purposes is to function as a mechanism for promoting organization, accommodation, and equilibrium of diverse interests within the legal system, or as a means to evaluate and implement effective legal strategies. Indonesia, being a developing nation, necessitates the involvement of investors in order to foster economic development. Therefore, it is imperative to establish explicit legislative regulations that ensure and safeguard the interests of investors in order to enhance their trust and willingness to invest in Indonesia. Therefore, it is imperative to have legal frameworks in place that regulate land ownership in the context of investment activity across different economic sectors.

The objective can be accomplished by the implementation of an Omnibus Law framework that consolidates all pertinent legislative provisions pertaining to property utilization for commercial or investment purposes. The Land Law has the potential to function as the foundational legislation for all sector-specific rules pertaining to the utilization of land for commercial or investment purposes. Hence, it is imperative that sector-specific legislations pertaining to land utilization for commercial or investment activities in diverse sectors make explicit reference to the Land Law as the primary legal framework governing property rights for investment objectives.

The prompt emphasizes the importance of promptly addressing swift economic fluctuations and advancements, while concurrently catering to the requirements of diverse stakeholders, particularly corporate entities, with regards to investing in Indonesia. Hence, it is imperative for the government to promptly address this matter through the implementation of policies that exemplify its dedication to fostering, safeguarding, and harmonizing the concerns of all stakeholders engaged in commercial endeavors. The primary stakeholders in investment encompass various entities, namely (a) business and investor

interests, (b) public interests, (c) investor interests, (d) interests of the receivers of investment, (e) employee and labor interests, (f) interests of state and local governments, (g) taxpayer interests, and (h) interests of tax collectors.

3.3.2 The topic of discussion pertains to the regulation of land utilization permits.

The potential convergence of land utilization permits for commercial operations, as previously stated, may be a cause for concern among business entities, particularly those of foreign origin. Hence, the optimal course of action to showcase the Indonesian government's commitment to ensuring security and legal assurance for investors intending to invest in the nation is to promptly establish regulations pertaining to land utilization permits, specifically those granted by regional authorities subsequent to the implementation of regional autonomy.

The present administration has undertaken the measure of cancelling a total of 2,065 Mining Business Licenses as of August 2022. The revocation of these licenses is a component of ongoing endeavours aimed at enhancing the governance of natural resources. This measure seeks to provide equitable, transparent, and impartial allocation processes in order to address disparities, inequities, and ecological harm. Hence, the evaluation of mining, forestry, and state land utilization permits is conducted in a continual and comprehensive manner. The revocation of government-issued licenses occurs when they are not utilized, fail to be productive, are transferred to other parties, or do not align with their intended goals and restrictions.

The government has adopted a resolute position regarding the issuance of licences for land utilization in the mining and plantation industries. This proactive measure aims to enhance the overall management of mining and forestry permits, together with other relevant permits. The cancellation of permits by the government aims to streamline the process of obtaining transparent and accountable business permits for corporate entities. This initiative particularly seeks to instil confidence and ensure legal certainty for investors interested in making investments in Indonesia.

Nevertheless, it is imperative that this revocation measure be supported by the implementation of revised laws that provide a robust and enforceable legal foundation. This is necessary to guarantee that these strategic and provisional policies remain unaltered in subsequent periods. In addition to guaranteeing adherence to legal statutes and the tenets of effective governance, this revocation must also assure compliance. The act of transferring or changing permits between business actors should not be seen as a simple administrative procedure, since it has the potential to result in discriminatory law enforcement practices against some business actors.

3.3.3 Guaranteeing Legal Enforcement in Response to Speculative Ownership of Land Rights

The World Bank has expressed significant concern regarding the enforcement of the law, particularly within the judiciary system. This concern is particularly relevant in the context of supporting the Ease of Doing Business (EoDB) initiative. The areas of focus within the EoDB initiative include facilitating the process of starting a business, ensuring the protection of minority investors, and establishing effective mechanisms for resolving disputes in courts. These efforts are aimed at providing a sense of legal certainty for investment implementation in Indonesia. The presence of legal enforcement at the court level in Indonesia is considered to be a significant contributing factor to the facilitation of economic activities.

In order to address these modifications, the Supreme Court, as the foremost judicial body, consistently undergoes both structural and substantive judicial reforms with the aim of bolstering public confidence and trust, as well as making contributions to legal reforms inside Indonesia. Instances of land mafia, as previously indicated, warrant significant attention from the Supreme Court, particularly from judges responsible for adjudicating land title conflicts or issues pertaining to investment execution. In order to effectively address

the issue of unscrupulous persons who exploit inappropriate advantages through speculative administrative measures, it is imperative for those responsible to exhibit diligence and decisiveness in rendering judgements. The potential consequences of insufficient scrutiny and erroneous legal considerations by law enforcement officials, particularly judges presiding over land mafia cases, can result in heightened levels of legal ambiguity in the execution of investments.

3.3.4 *Optimal Approaches to Land Utilization for Investment Objectives*

In order to effectively and efficiently utilize land for investment purposes in Indonesia, a number of strategic measures have been implemented to address the diverse concerns and challenges that arise in this context.

- a. **Revision and Updating of Regulations:** The process of critically examining and revising regulations pertaining to the exploitation of land for investment purposes. Well-defined and current regulations have the potential to offer enhanced direction to investors and foster an environment of legal assurance.
- b. **Integrated Spatial Planning:** The process of formulating comprehensive spatial plans that incorporate long-term objectives to achieve equitable land utilization across diverse sectors, encompassing investment considerations.
- c. **Land Mapping and Zoning:** The process of doing land mapping and determining appropriate zoning designations for different sorts of investments. Effective zoning regulations have the capacity to mitigate land use conflicts and optimize investment opportunities.
- d. The discussion will now focus on the potential and needs. The process of mapping involves assessing the potential of land and defining investment requirements that are in line with the specific characteristics of each geographical location. This facilitates the allocation of investments towards the industries that are most suitable.
- e. One area of focus for improving governance is land ownership transparency, which plays a crucial role in mitigating speculation and conflicts. The utilization of precise land ownership databases can effectively mitigate uncertainty.
- f. **Enhancing Information Accessibility:** Implementing a platform that offers full access to information pertaining to land availability, regulatory frameworks, permit acquisition, and investment procedures. This facilitates investors in making more informed and strategic selections.
- g. **Active stakeholder involvement** refers to the practice of actively engaging stakeholders, such as local communities, in the planning and decision-making processes pertaining to investments. Active participation has the potential to mitigate tensions and foster the development of support.
- h. **Strict law enforcement** is crucial for ensuring the effective implementation of regulations pertaining to land utilization. This approach aids in the preservation of financial discipline and serves as a deterrent against harmful actions.
- i. **Local Empowerment:** Facilitating the empowerment of local communities by fostering their active involvement in investment initiatives through collaborative partnerships or the acquisition of shares. This has the potential to improve the long-term viability of investments and garner increased community backing.

By integrating these procedural measures into a holistic approach, one can provide a conducive setting that fosters enhanced efficacy and productivity in the realm of land exploitation for investment purposes.

4. Conclusion

The present focus of the Government is to prioritize investment, both local and international, as a means to contribute to national revenue and spending. Nevertheless, the implementation of investments is a complex process due to the presence of numerous legislative regulations that govern the utilization of land for

investment objectives. The limits pertaining to land usage are associated with the ownership status of land utilized for investment, the prevailing disparities and injustices in land possession, use, and exploitation, the improper utilization and conversion of land, and the inadequate provision of services within the land sector. These aforementioned causes have resulted in a multitude of speculative acts within the realm of property ownership administration.

The national legal framework pertaining to land in Indonesia, as established by the 1960 Basic Agrarian Law, recognizes land as a crucial factor of production for the country, given its status as an agrarian nation. The wellbeing of millions of individuals in Indonesia is closely tied to the utilization and management of land resources. However, the country faces a multitude of issues in land management, necessitating the application of strategic thought to effectively address the diverse hurdles that emerge in the context of land utilization for investment execution. It is imperative to mitigate these barriers in order to optimize the use of land for the maximal socioeconomic benefit of the populace. Hence, it is imperative to enact modifications and enhancements in Indonesia's land legal framework and regulations with the objective of facilitating the advancement of welfare by promoting investment implementation. The proposed modifications should prioritize the alignment of legislative measures pertaining to land utilization for investment objectives across diverse economic domains, with the aim of offering investors a reliable legal framework when considering investment opportunities in Indonesia. Furthermore, it is imperative to establish rigorous law enforcement measures targeting individuals involved in land ownership speculation in order to guarantee legal clarity pertaining to land ownership for investment purposes within the Indonesian context.

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