

Legal Construction of Land Rights as a Result of the Village Cash Land Exchange Process Conducted by the Village Government

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Abstract: The focus of this legal research is to discuss the legal construction in the process of exchanging village treasury land carried out by the village government together with the village community based on statutory regulations and several scientific references in order to support the validity of the research conducted. On the island of Java, village treasury land or what is usually known as bengkok land should be productive land so that it can provide added value and become a source of income for the village head and his apparatus, but in reality, not all village-owned land is productive land so that it makes the village government experience a decrease in production due to less productive land. The problem also arises when the village treasury land in the form of a yard is occupied by the village community, because it has been settled for a long time, the community wants legal status to the land they occupy by buying the village treasury land through the exchange process, the sale-purchase agreement occurs between the surrounding community and the village government. As a form of follow-up to the sale-purchase process that has been carried out between the village government and the community, there is a release of the status of land rights. In this case there is legal uncertainty where people who have paid off the land have not been able to get a certificate for the land they have paid for. The research method used is Normative Juridical research based on laws and regulations which are then reviewed using applicable legal theories, concepts and principles so that it is expected to know and find the facts and data needed. Then briefly the research



results show that. The status of land rights on village treasury land is included in the status of the right of use, this refers to the definition of the right of use stipulated in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles Article 41 which states that the right of use is the right to use and/or collect products from land directly controlled by the State or land owned by others, which gives the authority and obligations specified in the decision to grant it by the official authorized to grant it or in the agreement with the owner of the land, which is not a lease agreement or land processing agreement, everything as long as it does not conflict with the spirit and provisions of this Law.

Keywords: *Land Rights, Village Government, Village Cash Land*

INTRODUCTION

Indonesia is a unitary republic with a decentralized local government structure. According to the idea of a unitary state, only the central government has the highest authority to govern the country, set national policies, and organize the state government both at the national level and at the regional level.¹ In the concept of decentralization, the central government gives authority to local governments to manage their regions. The concept of decentralization is regulated in the provisions of the 1945 Constitution Article 18 paragraph 1 which states that: "The Unitary State of the Republic of Indonesia is divided into provinces, regencies and cities, each of which has a regional government regulated by law." The idea of villages has evolved as a result of modifications to local government laws and regulations. Following the issuance of Local Government Law No. 22 of 1999 Jo Law No. 6 of 2014 concerning villages, Article 1 explains that "The village or what is called by another name, hereinafter referred to as the Village, is a legal community unit that has the authority to regulate and manage the interests of the local community based on local origins and customs recognized in the National Government system and located in the Regency." Based on the article, the definition of a village is a form of government that has the authority to organize and manage its territory within the scope of rural areas.² As for

¹ Soehino Soehino, *Ilmu Negara* (Yogyakarta: Liberty, 1998), p. 224.

² Rusliana Rusliana and Sri Kusriyah, "Implementasi Kebijakan Tukar Menukar Aset Desa Berupa Tanah Di Kabupaten Kendal (Studi Implementasi Permendagri Nomor 1 Tahun 2016 Tentang Pengelolaan Aset Desa)," *Jurnal Hukum Khaira Ummah* 13, no. 3 (June 19, 2023): 132, <https://doi.org/10.30659/jku.v13i3.1897>.



another definition expressed by Nurcholis, he stated that "the village is one of the autonomous regions that is at the lowest level of the hierarchy of regional autonomy in Indonesia".³

The definition of regional autonomy is the authority given by the central government to local governments to manage and run their own government affairs in accordance with the provisions of the Law, as well as regional autonomy in rural areas also recognizes the term village autonomy. According to Widajaja, village autonomy is pure autonomy and is not part of the government's administration⁴ In addition, Juliantara also gave his statement regarding the definition of village autonomy, he stated that village autonomy is not a sovereignty but a recognition of the right to regulate their own household affairs on the basis of community initiatives. Autonomy by itself can close the door to institutional intervention above it, on the contrary, it is not justified by an intervention process that is forced, sudden, and does not see the reality of the community.⁵ Village autonomy legally gives authority to the village government in managing and utilizing the village's original resources to support the process of organizing the village government in the context of empowerment, development, and welfare for the village community.

In the provisions of Law No. 6/2014 on Villages, Article 4 letter d explains that "village arrangements aim to: encouraging initiatives, movements, and participation of the village community to develop the potential and assets of the village for the common welfare". Village assets are objects or goods that are obtained using funds from the APBD or from other legal sources of funds according to laws and regulations. The form of village assets is generally regulated in Law No.6 of 2014 concerning Villages, Article 76 paragraph 1 to paragraph 5, which in the article describes the forms of village assets as a whole.

On the island of Java, village treasury land or what is usually known as bengkok land should be productive land so that it can provide added value and become a source of income for the village head and his apparatus, but in reality, not all village-owned land is productive land, making the village

³ Rusliana and Kusriyah, p. 130.

⁴ HAW Widjaja, *Otonomi Desa: Merupakan Otonomi Yang Asli, Bulat Dan Utuh* (Jakarta: Rajawali Pers, 2008), p. 165.

⁵ Dadang Juliantara, *Pembaruan desa: bertumpu pada yang terbawah* (Yogyakarta: Lappera Pustaka Utama, 2003), p. 116.



government experience a decrease in production due to less productive land. The problem arises when the village treasury land in the form of a yard is occupied by the village community, because it has been settled for a long time, the community wants the legal status of the land they occupy by buying the village treasury land through the exchange process, the sale-purchase agreement occurs between the surrounding community and the village government. As a form of follow-up to the sale-purchase process that has been carried out between the village government and the community, there is a release of land rights status. Because some people make payments by credit or in installments, the village cannot buy replacement land as a condition of the exchange effort stipulated in the Minister of Home Affairs Regulation number 1 of 2016, in this case there is legal uncertainty where people who have paid off the land cannot get a certificate for the land they have paid for, therefore as a result of the absence of legal certainty over the land they have purchased, the village community submits a request to the village government so that the problem can be resolved immediately.

THEORETICAL BASIS

Legal protection is the state's effort to ensure that every individual can exercise their rights and avoid arbitrary actions, both from the state and other parties. This means that the law is not just a collection of rules, but also a mechanism for realizing justice and order in society. According to Philips M. Hadjon, legal protection is an effort made to maintain and protect the basic rights of every human being.⁶ According to Muchsin, the definition of legal protection is a regulation that aims to protect the rights of legal subjects based on aspects of justice which are then legalized into laws and regulations.⁷ There are 2 (two) types of legal protection, among others:

- (a) Preventive Legal Protection is legal protection implemented to prevent the occurrence of an offense.
- (b) Repressive Legal Protection is legal protection that can be implemented when a violation occurs.

⁶ Desy Ary Setyawati, Dahlan Ali, and M. Nur Rasyid, "Perlindungan Bagi Hak Konsumen dan Tanggung Jawab Pelaku Usaha Dalam Perjanjian Transaksi Elektronik," *Syiah Kuala Law Journal* 1, no. 3 (December 14, 2017): 36, <https://doi.org/10.24815/sklj.v1i3.9638>.

⁷ Muchsin Muchsin, *Perlindungan Dan Kepastian Hukum Bagi Investor Di Indonesia* (Universitas Sebelas Maret, 2003), p. 34.



Legal protection according to Setiono is an action taken to protect the public from arbitrary actions of authorities who do not comply with the laws and regulations concerned in order to maintain peace and act in general.⁸ In addition to legal protection, legal certainty is one of the essential principles in the rule of law. With the principle of legal certainty, the parties to the dispute will get legal certainty related to the rights and obligations that must be resolved immediately, there are various opinions related to the understanding of the theory of the principle of legal certainty according to experts, among others: According to Peter Mahmud Marzuki, the theory of legal certainty is a theory that contains 2 (Two) notions. Firstly, General rules help people know what they can or cannot do, and Secondly, Legal security means that people are protected from the government doing anything to them. It's like having rules that everyone has to abide by, so people know what the government can and cannot do to them.⁹

Utrecht also stated that the law has a duty to ensure legal certainty in human relations, according to him there are 2 kinds of legal certainty: First, certainty because the law is intended, because there is a law then there is certainty. Because the law regulates the rights and/or obligations that a person must obtain or fulfill. For example: the law determines that there is a period of time for land rights, after the expiration of that period a person will lose his land rights. This means that the law will guarantee certainty for someone with the government will get certain rights or will lose certain rights. Second, the certainty in or from the law means that every legal norm must be formulated with sentences in it and does not contain different interpretations. This is often found in legal events, where the substance of legal norms governing related matters is sometimes unclear, giving rise to different interpretations, and consequently leading to legal uncertainty.¹⁰

RESEARCH METHODS

⁸ M. Husein Maruapey, "Penegakan Hukum Dan Perlindungan Negara (Analisis Kritis Terhadap Kasus Penistaan Agama Oleh Patahana Gubernur DKI Jakarta)," *JIPSI - Jurnal Ilmu Politik Dan Komunikasi UNIKOM* 7, no. 1 (August 14, 2017): 23, <http://jipsi.fisip.unikom.ac.id/jurnal/penegakan-hukum-dan.4n>.

⁹ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana Prenada Media Group, 2008), p. 1.

¹⁰ Sutrisno, *Memahami Selayang Pandang Ilmu Hukum* (Semarang: UNNES Press, 2011), p. 33.



This type of research is normative legal research, the purpose of using the research method chosen is to discuss legal issues by applying legal norms or rules contained in Positive Law and supported by factual data. This *Yuridis Normatif* research method, which is this type of legal research, is based on laws and regulations which are then reviewed using applicable legal theories, concepts and principles so that it is expected to find out and find the facts and data needed.¹¹ Therefore, on this basis, the author uses the Normative Juridical research type to discuss the Legal Construction of Land Rights as a result of the exchange process carried out by the village government.

RESULT AND DISCUSSION

According to Law No. 6 of 2014 on Villages article 1 states that: "Villages are villages and customary villages or what are called by other names, hereinafter referred to as villages, are legal community units that have territorial boundaries that are authorized to regulate and manage government affairs, the interests of the local community based on community initiatives, origin rights, and/or traditional rights that are recognized and respected in the system of government of the Unitary State of the Republic of Indonesia." Several experts also provide opinions related to the definition of a village.

According to Hanif Nurcholis, a village is an area inhabited by a number of people who know each other, live together, have relatively similar customs, and have their own procedures in organizing their social life.¹² R. Bintarto argues that a village is a geographical manifestation arising from a variety of elements in which there are physiographic, social, political economic, and local cultural elements in the relationship and mutual influence with other areas.¹³ Based on several opinions related to the definition of the village, it can be concluded that with the birth of Law No. 6/2014 on the village, the village is a mixed organization between the community government and local government. That way, the government system in the village is in the form of community government with all the authority it has.¹⁴ The village is also no longer synonymous with the village government and the

¹¹ Bambang Waluyo, *Penelitian Hukum Dalam Praktek* (Jakarta: Sinar Grafika, 2002), p. 15.

¹² Hanif Nurcholis, *Pertumbuhan Dan Penyelenggaraan Pemerintahan Desa* (Erlangga, 2011), p. 4.

¹³ R. Bintarto, *Geografi Desa* (Yogyakarta: Up.Spring, 1989), p. 4.

¹⁴ Bambang Adhi Pamungkas, "Pelaksanaan Otonomi Desa Pasca Undang-Undang Nomor 6 Tahun 2014 Tentang Desa," *Jurnal Usm Law Review* 2, no. 2 (November 20, 2019): 214, <https://doi.org/10.26623/julr.v2i2.2271>.



village head, but the village government as well as the community government that forms a legal entity, meaning that the community also has the authority to regulate the village as the village government.¹⁵

In general, village treasury land is land owned by the village government whose wealth is optimized in the context of governance, development, welfare for the progress of the village community and can be released as an object of public interest land acquisition, and in the context of orderly administration of village treasury land management, special rules regarding village treasury land are needed.¹⁶ Village treasury land is included in the assets owned by the village government based on the provisions of Law No. 6/2014 article 76 which states that: "Village assets can be in the form of village treasury land, customary land, village markets, animal markets, boat moorings, village buildings, fish auctions, agricultural product auctions, village-owned forests, village-owned springs, public baths, and other assets owned by the village", besides that village treasury land is also a type of land rights controlled by the local government with special use rights. Although in this case the local government is only controlling.

The definition of the special right of use is a right of use that is not limited to the period of use and cannot be transferred or transferred to a third party. In addition, Village Cash Land is classified as a Special Use Right because the Local Government as the party that controls the Village Cash Land acts as one of the subjects of the Special Use Right user.¹⁷ To prevent disputes over village treasury land, it is necessary to provide legal protection for the village treasury land, namely:

- (a) Preventive measures are realized in the process of inventorying and registering village treasury land in order to obtain guarantees and legal certainty over the land.
- (b) Corrective, this action is realized in the process of reviewing the consequences that occur because of the actions taken by rights violators.

¹⁵ M Salahudin, *Kewenangan Desa Dan Regulasi Desa*, Cetakan Pertama (Jakarta: Kemernterian Desa PDTT RI, 2015), p. 11.

¹⁶ Salamah Nur Aini, "Aspek Hukum Dalam Proses Tukar Menukar Tanah Kas Desa Dengan Tanah Hak Milik (Studi Kasus Di Desa Teloyo, Kecamatan Wonosari, Kabupaten Klaten)" (other, Semarang, Universitas Negeri Semarang, 2018), p. 47, <http://lib.unnes.ac.id/38390/>.

¹⁷ Aini, p. 49.



- (c) The imposition of sanctions can be in the form of administrative sanctions, civil sanctions, or criminal sanctions.¹⁸

When viewed from a historical aspect, Tukar Menukar was originally born in the Dutch colonial era which at that time was still led by Governor General Herman Willem Daendels who at that time faced a condition where the Dutch Indies government needed a budget to build buildings and facilities both at the central and regional levels¹⁹, in the era of herman willem daendels there was a conflict of norm which in the *Burgelijk Wetboek* did not give a naming to *ruilslag* but was written with the naming of exchange (*Ruilen*), conflict of norm occurs when the exchange activity based on the *burgelijk wetboek* regulates the exchange procession of fixed objects in general, of course this is very different from *Ruilslag* which regulates a legal action to exchange state assets and / or regional assets which are actually not allowed.

In the perspective of legal science, exchange is a legal act which means an act that has certain legal consequences or legal consequences for the object or object with the basis of property rights, the legal consequences are born due to legal actions carried out by the parties based on an agreement. Adeline Melanie expressed her opinion regarding the conception of exchange, "*Ruilslag* or exchange is an agreement by which the two parties bind themselves to give each other land reciprocally but on the other hand it is still added by doing work and others in accordance with the agreement of the parties".²⁰ This agreement has been adopted by Indonesian civil law bodies by applying the entire understanding of the principle of freedom of contract adopted under the Civil Code and carried out with full responsibility

The status of land rights as a result of the exchange process carried out by the Village Government

Basically, the status of village treasury land rights is not explicitly mentioned in existing regulations, but there are several articles that classify the status of village treasury land rights. The various definitions of land rights are regulated in Law No. 5/1960 on the Basic Regulation of Agrarian Principles Article 16 explains the various types of land rights.

¹⁸ Umi Supraptiningsih, "Upaya Hukum Dalam Perlindungan Tanah Kas Desa," *Yuridika* 25, no. 3 (October 5, 2010): 261, <https://doi.org/10.20473/ydk.v25i3.257>.

¹⁹ Imam Koeswahyono, *Kontroversi Ruilslag (Perspektif Politik Hukum)* (Malang: UB Press, 2019), p. 2.

²⁰ Koeswahyono, p. 3.



When referring to the Regulation of the Minister of Home Affairs No. 1 of 2016 concerning Village Asset Management, there are several articles that indicate that the village treasury land is included in the land that has the status of the right of use, the definition of the right of use is explained in Law No. 5 of 1960 concerning Basic Agrarian Principles Article 41 which states that: "The right of use is the right to use and/or collect products from land directly controlled by the State or land owned by others, which gives the authority and obligations specified in the decision to grant it by the official authorized to grant it or in an agreement with the land owner, which is not a lease agreement or a land processing agreement, everything as long as it does not conflict with the spirit and provisions of this Law." In connection with the understanding of the right of use regulated in Law Number 5 of 1960, there are several articles that can be used as a reference that village treasury land is included in the right of use and not property rights, in article 6 number 4 of the Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management states that "village assets are prohibited from being transferred to other parties as payment for bills to the village government", in article 25 paragraph 2 of the Minister of Home Affairs Regulation Number 1 of 2016 it is also explained that "The transfer of village assets as referred to in paragraph (1) in the form of land and / or village-owned buildings is only carried out by exchange and capital participation." On that basis, it is certain that the status of rights on village treasury land is not property rights because if examined further, the status of property rights can basically be owned by someone and can be transferred through a legal action, this refers to the provisions of Law Number 5 of 1960 Article 20 paragraph 2.

The status of the right of use in the village treasury land can be transferred to property rights if in this case the village government makes efforts to transfer the process through exchange efforts, this is also in accordance with the provisions of Article 25 of the Regulation of the Minister of Home Affairs Number 1 of 2016 which is then clarified by the provisions of Article 32 of the Regulation of the Minister of Home Affairs Number 1 of 2016 concerning Village Asset Management which states that "The transfer of village assets in the form of land through exchange as referred to in article 25 paragraph 1 letter a consists of: (a) In the public interest, (b). Not in the public interest, (c). Village-owned land located outside the village.

Continuing the sound of article 32, in the case of transferring through exchange efforts for village treasury land, it should be able to be carried out



based on several sources of applicable laws and regulations, but in terms of practice it is necessary to then be given some special attention considering that the exchange practice has several stages that need to be considered. The procedure for the exchange process for the public interest is regulated in the Regulation of the Minister of Home Affairs Number 1 of 2016 concerning Village Asset Management Article 34 which states that "

1. The exchange of village-owned land as referred to in Article 33 is carried out in stages:
 - a. The Village Head submits a letter to the Regent/Mayor regarding the results of the Village Deliberation on the exchange of Village-owned land with the prospective location of the replacement land in the local village;
 - b. The Village Head submits a permit application to the Regent/Mayor, after which the Regent/Mayor forwards the permit application to the Governor;
2. If the location of the replacement land is not available in the local village as referred to in Article 33 letter e, it shall be carried out in stages:
 - a. The Regent/Mayor conducts field reviews and data verification to obtain material and formal truth as outlined in the official report;
 - b. The results of the field review and data verification as referred to in letter b are submitted to the Governor as consideration for granting approval;
 - c. Prior to granting approval as referred to in letter c, the Governor may conduct field visits and data verification;
 - d. After the Governor gives his approval, the Village Head then enacts a Village Regulation on the exchange of village-owned land. "

In the case of the procession of transferring village treasury land to the community, it is necessary to release the rights carried out by the village government which then the rights are given back to the state as a condition for converting the rights from the right of use to property rights, and then the village community in this case requests the status of the land rights so that they can be converted into property rights and of course in this case the land that is the object of the exchange switches its right status from the right of use to the right of ownership due to the request made by the local community and on the basis of the musrawarah conducted by the previous village government, After the village decree is issued, the village government in this case will submit to the regent and governor to issue the same decree in order



to complete the required files which will later be submitted to the National Land Agency to process the transfer of rights from use rights to property rights,

It should be noted that in efforts to change the status of land rights (conversion of rights) cannot be separated from the role of notaries in legitimizing the process of transferring these rights, in Law Number 30 of 2004 concerning Notary Position Article 15 which states that "Notaries are authorized to make authentic deeds regarding all actions, agreements, and provisions required by laws and regulations and / or desired by those concerned to be stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, provide a grosse, copy and quotation of the deed, all of which are insofar as the making of the deeds is not also assigned or excluded to other officials or other persons stipulated by law." The change in the status of land rights requires a letter of release of rights from the village government along with a letter of release of rights from the prospective replacement land, which in this case is made by a notary or authorized official, in Government Regulation Number 19 of 2021 Article 100 to article 103 concerning the Implementation of Land Acquisition for Development for the Public Interest.

Referring to Government Regulation No. 19 of 2021 concerning the Implementation of Land Acquisition for Development for the Public Interest, it can be seen that in an effort to implement exchange activities carried out Notary has a role in facilitating the process of releasing rights carried out, both from the government and from the prospective replacement land, If all the requirements have been met, the next stage is the documentation of land acquisition administrative data where in this process the land acquisition implementer collects, classifies, processes, and stores Land Procurement data which is then stored, documented and archived by the local land agency in the form of electronic data, the data can be submitted to the agency that requires the land accompanied by the minutes.

Construction of Dispute Resolution that can be carried out as a result of the Village Cash Land Exchange Process

The construction of the settlement of village treasury land disputes due to the process of exchanging village treasury land can be done with a variety of efforts, dispute resolution efforts can generally be resolved through the litigation process (court) or can be through Non Litigation (out of court), in terms of relation to the procession of exchanging village treasury land can



be resolved by using mediation efforts first, in which case there needs to be a discussion to find a solution to the case that is happening, The need for mediation in this case is as an effort in order to discuss the various obstacles that exist in the process of implementing the exchange of village treasury land that is being carried out, when viewed from several provisions governing the exchange implementation procedures as contained in the Regulation of the Minister of Home Affairs Number 1 of 2016 concerning Village Asset Management Article 33 paragraph 2 states that: "The exchange as referred to in paragraph (1) is carried out with the provisions:

- a. The exchange is carried out after an agreement on the amount of compensation according to a price that is favorable to the village by using the fair value of the appraiser's calculation;
- b. If the replacement land is not yet available, money can be given to the replacement land first;
- c. reimbursement in the form of money as referred to in letter b must be used to purchase replacement land of equal value;
- d. replacement land as referred to in letter c is preferably located in the local village; and
- e. if the location of the replacement land is not available in the local Village as referred to in letter d, the replacement land may be located within one Sub-district and/or Village in another directly adjacent sub-district. "

In the case of alienation through exchange efforts, replacement land is needed first so that the exchange process can be carried out, in this case the village government as the Party that will release the village treasury land to the community needs to first prepare the replacement land in accordance with the provisions of the legislation. The need for replacement land first hampers the process of exchanging village treasury land if in this case the community has not fulfilled the obligations in the payment process that must be done first so that the government can find replacement land in accordance with the procedures for exchanging village treasury land.

There are several stages in the process of implementing the exchange of village treasury land according to the Minister of Home Affairs Regulation Number 1 Year 2016 Article 34 which states that: "

- (1) Exchange of village-owned land as referred to in Article 33 is carried out in stages:
 - a. The Village Head submits a letter to the Regent/Mayor regarding the results of the Village Deliberation on the exchange of Village-owned



- land with the prospective location of the replacement land in the local village;
- b. The Village Head submits a permit application to the Regent/Mayor, after which the Regent/Mayor forwards the permit application to the Governor;
- (2) If the location of the replacement land is not available in the local village as referred to in Article 33 letter e, it shall be carried out in stages:
- a. The Regent/Mayor conducts field reviews and data verification to obtain material and formal truth as outlined in the official report;
 - b. The results of the field review and data verification as referred to in letter b are submitted to the Governor as consideration for granting approval;
 - c. Before granting approval as referred to in letter c, the Governor may conduct field visits and data verification;
 - d. After the Governor gives his approval, the Village Head shall then enact a Village Regulation on the exchange of village-owned land."

With several stages starting from the deliberations carried out both among the internal village government and the village community, it is hoped that a solution or middle ground can be found, in this case if there is one party who does not agree with the amount of compensation proposed, in accordance with Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest Article 75 paragraph (1) states that "In the event that there is no agreement regarding the form and / or amount of compensation, the Eligible Party may file an objection to the local District Court within a maximum period of 14 (fourteen) days after the signing of the minutes of the results of the deliberations as referred to in Article 74 paragraph (31.)."

if referring to several Government Regulations number 19 of 2021 which was later amended by Government Regulation Number 39 of 2023 concerning amendments to Government Regulation number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest in article 71 states that "

- (1) The Land Acquisition Organizer shall hold a deliberation accompanied by an Appraiser, Block Appraiser or Government Appraiser and the Land Requiring Agency with the Eligible Party within a maximum of 30 (thirty) Days after the appraisal results from the Appraiser are received by the head of the Land Acquisition organizer.



- (2) The deliberation as referred to in paragraph (1), is conducted directly to determine the form of compensation based on the results of the compensation assessment as referred to in Article 68 paragraph (1).
- (3) In the deliberation as referred to in paragraph (1), the implementer of Land Acquisition shall submit the amount of compensation resulting from the assessment of the Appraiser, Public Appraiser or Government Appraiser as referred to in Article 68 paragraph (1).
- (4) The deliberation as referred to in paragraph (1) may be divided into several groups by considering the number of Eligible Parties, the time and place of the deliberation to determine the form of compensation. "

The birth of Government Regulation Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development for the Public Interest brings several changes to the process of implementing land acquisition for the public interest, with the existence of Government Regulation Number 39 of 2021 making several provisions in government regulation number 19 of 2021 unenforceable, while some of the changes made are aimed at providing a more detailed explanation of the process of land acquisition for the public interest.

With the existence of Government Regulation Number 39 of 2023 concerning Amendments to Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest, explaining related to changes in the process of implementing land acquisition for the public interest, several provisions that have changed in this case related to the dispute resolution process are regulated in article 79 paragraph 1 which states that "Compensation in the form of replacement land as referred to in Article 76 paragraph (Ll letter b) is carried out by the Agency that Requires Land and / or managers and / or users of state property / regional property / village assets based on a written request from the chairman of the Land Acquisition implementation. " There are several changes in which in Government Regulation No. 19 of 2021 it is said that the provision of compensation in the form of replacement land can be carried out by the agency that Requires Land based on a written request from the chief executive of Land Acquisition. Which in this case there is an update regarding the subjects that can carry out compensation, in this case the agency, the manager, and the user of state property, so that the number of subjects is not limited in terms of management. The form of compensation that can be given can be: (1). Money (2). Replacement land (3). Resettlement (4). Shareholding (5). Other



forms agreed by both parties. The compensation provided in this case refers to the results determined by the appraiser, public appraiser, or government appraiser so that it is hoped that no party will feel disadvantaged.

CONCLUSION

The status of land rights on village treasury land is included in the status of the right of use, this refers to the definition of the right of use stipulated in Law No. 5 of 1960 concerning Basic Agrarian Regulations Article 41 which states that "The right of use is the right to use and/or collect products from land directly controlled by the State or land owned by others, which gives the authority and obligations specified in the decision to grant it by the official authorized to grant it or in an agreement with the owner of the land, "Because village treasury land is included in the right of use, the transfer process is only allowed to use exchange and equity participation efforts, this is based on the Minister of Home Affairs Regulation Number 1 of 2016 article 25 paragraph 2, In the case of the procession of the transfer of village treasury land to the community, it is necessary to release the rights carried out by the village government which then the rights are given back to the state as a condition for converting the rights from the right of use to property rights, and then the village community in this case requests the status of the land rights so that it can be converted into property rights and of course in this case the land that is the object of the exchange switches its right status from the right of use to the right of ownership due to the request made by the local community and on the basis of the musrawarah conducted by the previous village government. so that the agreed results of the deliberations conducted by the village government, After the village decree is issued, the village government in this case will submit to the regent and governor to issue the same decree in order to complete the required files which will later be submitted to the National Land Agency to process the transfer of rights from use rights to property rights.

In addition, the reconstruction of dispute resolution that can be carried out is through several stages which in this case can be resolved through mediation involving the village government and the community, basically the community also needs to be invited to deliberate on the process of paying off village treasury land which is regulated in the Regulation of the Minister of Home Affairs Article 33 paragraph 2 (b) which states that "if the replacement land is not yet available, the replacement land can first be given in the form of money." Therefore, it is necessary to hold deliberations for the realization of a consensus.



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