

# Determination Versus Deliberation of Indemnity Value Land Procurement for The Public Interest

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**Abstract.** Every land right has a social function, but in terms of providing land for the public interest, it is not appropriate to apply its social function. Especially if the public interest is commercial. Often the provision of land is used for commercial purposes and there is an increase and jump in the value of land area. Settlement of compensation for the provision of land for public purposes has resulted in various problems. One of the problems is the rejection of the replacement value set by the public assessment team. Chapter IV part four Paragraph 4 of Law no. 2 of 2012 with the title Deliberation Determination of Compensation. It is necessary to explore the contradiction between the determination of the compensation value and the deliberation on determining the compensation. To do this, a normative juridical study was conducted by examining the norms of Article 37 of Law no. 2 of 2012 which is related to Article 34 and Article 26. The deliberation is not in the framework of agreeing on the difference in replacement price between the version of the public appraisal team and the price expected by the public. However, deliberation is to resolve differences in physical data and juridical data on land area released or to resolve other problems. Meanwhile, the determination of the basic value of the replacement is fixed and is not subject to deliberation. It is not appropriate to provide land for the public interest through compensation for the value of compensation, but it should be done with an appropriate and equitable assessment for the welfare of the community. Especially if the provision of land is related to commercial interests and not social interests. The fourth paragraph, Part Four, Chapter IV of Law No. 2 of 2012, uses the subheading of the Deliberation on the Determination of Compensation, in fact the content is an equalization of the perception of physical data and juridical data on the released land objects, so that a settlement can be carried out by conducting deliberation. Meanwhile, the compensation value has been determined as the public authority based on the value of the land zone which cannot be changed. Making the essence of deliberation unrealized.

**Keywords:** deliberation; determination; replacement money; release of land rights

## 1 Background

The relationship between rights holders and their land is not only juridical, sociological and philosophical, but also economic in nature. In principle, the value of land never decreases economically, but in fact, there is always an increase even with big leaps when various facilities are available on the land for the community. By itself, the opportunity for an increase in the price of the land around it was realized. It is determined that each land right has a social function. However, the application of social functions in terms of providing land for

development and public interests is not appropriate, especially if the provision of land is intended for commercial interests, such as the provision of land for toll road procurement, expansion of ports, airports, public markets, provision of parking lots and others. The use of land must be adjusted to the nature, purpose and circumstances of the rights so that it can have an impact on the welfare and happiness of the rights holders, as well as benefit the community and the nation.

Based on the right to control the state in Article 2 paragraph (2) of the UUPA, the government has also regulated and organized land designation<sup>6</sup> in order to development for the public interest based on Law no. 2 of 2012 and Presidential Regulation No. 71 of 2012 as lastly amended by Presidential Regulation No. 30 of 2015 concerning the Third Amendment to Presidential Regulation No. 71 of 2012 concerning Implementation of Land Acquisition for Development in the Public Interest. Furthermore, the term land acquisition for development in this article will use the term land provision. While the term public interest is used in terms of public needs.

If an agreement has been reached between the land office and the local community regarding the determination of the construction location for the public interest, the rights-holding community can only transfer their rights to the agency requiring land through the land office. The content of this norm contains assertiveness as an order as well as a prohibition. The content of the mandatory rules is that the obligation to transfer land must be to the agency in need through the land office. The content of the prohibition rules is that it is not allowed to transfer land parcels other than to institutions requiring land. In the event that the land in question has been determined as land required for public interest to be released.

The transfer of rights in the provision of land is carried out through the release of rights with compensation for losses. Holders of land rights are obliged to release their land after receiving compensation. This means that the conditions for relinquishing the rights are the receipt of compensation by the right holder. The mechanism of conflict or rejection of receiving compensation has also been regulated based on Perma No. 3 of 2016 by submitting an objection to the general court and by entrusting compensation to the court.

In the case of the need to provide land for public purposes, the issue of compensation value tends to produce complex problems. It is complicated because of the high price value expectations from the people. In the end, it ended in a dispute between the parties so that it needed a wise settlement for all parties. A dispute is in the form of a rejection of the value of the compensation determined by the appraiser, while on the other hand it becomes the basis for determining the compensation.

For the purposes of providing land, Law no. 2 of 2012 concerning Land Acquisition for Development and implemented most recently by Presidential Regulation No. 30 of 2015. The replacement value as compensation for relinquishment of rights is determined by an independent public appraiser. Article 34 paragraph (2) Law no. 2 of 2012; "The value of compensation as a result of the public appraiser's assessment becomes the basis for deliberations on the determination of compensation". Article 37 with the contents; the land agency conducts deliberations with the right holders and the result of the agreement in the deliberations becomes the basis for providing compensation.

The result of the appraisal is taken over by the land office by making its decision and the value in this decree which is the object of the deliberation to determine compensation. It is as if there is a contradiction, namely what has been determined and then carried as the basis for deliberation. Whereas in deliberation the principle is equality of the parties by listening to each other and giving and receiving. This means that in the deliberations there will be a shift from the original provisions. Meanwhile, provisions are objects that are certain and can no

longer be changed. Possible changes can only be made on the basis of an error clause in the context of adjustment only.

Deliberation as a dialogical act between the disputing parties. For this reason, it is necessary to further study the affairs of the determination and the affairs of deliberation in terms of determining compensation for the provision of land for the public interest and settlement efforts if the deliberations do not produce an agreement. Thus, it is deemed necessary to explore the essence of the substance of deliberation in determining compensation for the provision of land for public purposes, as the fourth paragraph, fourth section, Chapter IV of Law no. 2 of 2012. As well as how to resolve the rejection of provisions and deliberation forums that did not result in an agreement.

To study it, normative legal research was carried out using legal systematics and a statutory approach. In particular the subheading of the fourth paragraph, the fourth part, Chapter IV and the content of the norms of Article 37 of Law no. 2/2012, relating to Article 34 and Article 27. Equipped with interviews with related officials, namely the coordinator of land acquisition at the South Jakarta Administrative City Land Office. The analysis is carried out with the public authority and private authority by the state and compares the etymology between the stipulation and deliberation. The results of the analysis are used as a basis for drawing conclusions on the problems raised, so that they can appear simpler and easier to understand.

## **2 Discussion**

### **2.1 Designation and Deliberation in Land Provision**

Provision of land by way of relinquishing rights is classified as an act that breaks the legal relationship between the subject of the right holder and the object of the land forever. The waiver of rights precludes the possibility of having his rights taken back through any legal action. Through the relinquishment of rights, the subjects supporting the rights to a plot of land are permanently separated from the rights to their land. Relinquishment of rights is an act of breaking the legal relationship of the party entitled to land to be submitted to the state through the land agency. Means ending the original controlling authority and transferring it to the control of the state for further regulation. This termination action has legal consequences so that it is considered a legal act. The legal implication of land release makes authority over land ends and its rights are abolished and the legal status of land objects changes to state ownership to be further arranged.

Relinquishing rights to land is an act of transferring rights, because the transfer is through legal actions. Meanwhile, land rights become transferred, if the transfer of control to another party without going through legal action. Legal actions to relinquish land rights are only possible for the state as the authority with the right to control the state. Control by the state is related to the authority to provide regulations regarding legal actions, legal relations and land use. Every right holder has the right to control over these rights.

According to Irawan Soerojo the substance of the right to control is in the form of a legal relationship over real control over an object to be utilized for the interests of the controlling person. In the content of the right to control, there is also a supervisory function over the physical objects under control. With the relinquishment of rights over land, there is also the release of rights to control and become real control by the state. Then it will reassign. The

state is not the subject of ownership rights over land parcels, but the state has great authority based on the right to control the state.

The relationship between the community and the state regarding land tenure is not in the context of a subordinate relationship, but is a fair umpire in determining the rules of the game related to land provision and the state is also subject to the rules it makes itself. The transfer of land rights to the state cannot be carried out through sale and purchase transactions, because the state does not have the capacity as the owner of a plot of land. Release of rights by providing compensation value. The form of compensation with several alternatives in the form of; money, replacement land, resettlement, share ownership and other forms agreed by both parties. This means that this replacement arrangement is still open and flexible because it still provides replacements through other forms agreed by both parties. Of course, it's not easy to implement.

According to Mudakir the meaning of provision of land broadly contains 3 elements, namely,

- a. Activities to acquire land, in order to fulfill land needs for development of public needs;
- b. Providing compensation to those affected by activities;
- c. Release of legal relations from land owners to other parties.

The government provides land for public use. Some of the related regulations are laws regarding land acquisition, land acquisition and land acquisition. The similarity of the term's revocation of rights, land acquisition and land acquisition lie in the provision of compensation for each activity given to the legal right holder. Gunanegara determine there are 3 ways to get land for development for public purposes through;

- a. Private legal mechanism (*privatrecht*): buying and selling, exchanging.
- b. public legal mechanism (*publiekrecht*): their rights are revoked.
- c. Mixed legal mechanism (*gemeenschapelijkrecht*): land provision.

Acquisition of land through buying and selling is categorized as the use of private legal mechanisms because the government acts in its position as a civil legal entity. The government does not use its public power in legal acts of buying and selling. Meanwhile, in the revocation of rights, the government dominantly uses its public authority to carry out public needs. Activities in the form of land provision by land acquisition are categorized as a mixed legal mechanism because at the same time state actions contain private aromas and also public aromas. As contained in Law Number 2 of 2012 with the use of mixed legal mechanisms to acquire land based on the method of relinquishing land rights. The deliberation mechanism is a private content and a determination mechanism as a public content.

Provision of land through relinquishment of rights is used if the deliberations are able to produce an agreement. According to Gunanegara Land acquisition is classified as a mixed legal mechanism (*gemeenschapelijkrecht*) because the state acts within the scope of civil law while also using its powers. Procurement of land contains authority that has a private flavor as well as authority that has a public aroma. The mixed legal aspect is seen in the relinquishment of rights as an obligation to relinquish the rights of the holder with a public aroma. Including the use of a determination instrument in determining the amount of compensation that is also public in nature. The authority of a private nature is to hold deliberative forums related to the payment of replacement money.

For the government, the matter of compensation for losses has been described and predicted from the start, starting from the land acquisition plan stage which is stated in the land acquisition planning document in the form of an estimated land value. The determination

of the location of development for public purposes has legal implications for the local community, namely:

- a. The entitled party can only transfer their land rights to the agency requiring land through the land office;
- b. Determination of the compensation value by a public appraiser based on the value of the land object and its follow-up at the date of the announcement of the location determination

This method provides an overview of norms that have high authority as a form of the use of the public element of state authority. This method also contains the norm of prohibiting transferring to other parties. In the implementation stage of providing land through the release of rights by giving compensation, the value is determined at the time the value of the location determination is announced, in accordance with the provisions of Article 27 paragraph (4) which is correlated with the content of Article 34 of Law No. 2 of 2012.

Article 34 paragraph (1): "The value of compensation assessed by the public appraiser is the value at the time of the announcement of location determination". Paragraph (2) the results of the public appraiser's assessment are submitted to the land agency with an official report. Paragraph (3) The value of compensation resulting from the appraiser's assessment becomes the basis for deliberations on determining compensation. There appears to be a lack of harmony in the regulation of Article 34 paragraph (3). There is an overlap in the settings for the value of compensation, namely deliberations on the determination of compensation. It was as if the value of the compensation could be resolved through deliberation. Coupled with the fourth paragraph, the fourth part of Chapter IV Law no. 2 of 2012 also uses the subtitles of the Deliberation on Determination of Compensation.

Article 34 paragraph (3) determines the compensation value resulting from the appraiser's assessment as the basis for deliberations to determine the compensation. It is as if the determination of the replacement value can be deliberated and then stated in the minutes of the agreement. In fact, the determination is a product that is one-sided and cannot be changed. Changes to what has been determined are only possible if there is an error in the determination, so that the error clause is made changes. This means that changes are not made on the basis of consensus agreement. The word determination with the root word "fixed" has a definite meaning, does not shift.

Also meaningful, as determined and will not be changed again. This means that the determination of the compensation value in the release of land rights, the value of which is determined when the value of the announcement is a determination. This stipulation is unilateral in nature and has a public element with the use of state authority.

The word deliberation contains the meaning of negotiation, or as a way to eliminate or minimize differences between two factions with different opinions. Deliberation as a vehicle to eliminate differences so that disputes that will arise can be prevented from an early age. Deliberation contains a private element resulting from the two camps. This private element is formed because deliberation requires an equal position. Deliberation can take place if there is equality between the parties. In accordance with the adage stand at the same height and sit as low with mutual respect.

The use of a vehicle for deliberation with the product is an agreement or actually results in refusing to agree or remaining in disagreement. Refusal to agree on deliberation means that the deliberations have failed to reach agreement. The failure of this deliberation was because the parties with different opinions remained in their respective positions and did not find

common ground regarding their differences. As a result, problems persist because each of them remains on two divided sides.

In connection with deliberation in providing land and releasing rights to land, there are two means of deliberation. First, deliberation to determine the location for the provision of land and secondly deliberation in determining the replacement value of the release of rights. This article only discusses deliberation regarding the replacement of waivers. Successful deliberation is when the opposing camps or those that do not have the same perception can be brought together in one perception. The same viewpoint will produce a product in the form of an agreement report. The product produced through this equalization of perceptions has nullified existing differences and the two camps are both satisfied and merged together in an agreement.

The deliberation room in determining the value of replacement money for the land to be released is occupied by camps that have not yet reached common ground. The other party is the land office and institutions that need land at one point and at another the community holding rights to the land. If the holder of the land right does not agree with the determination of the replacement value of the assessment team, in practice the determination of the replacement value cannot be changed, because it has been created in the form of a provision.

However, if the difference is related to the object of relinquishing rights such as the area of land parcels, or the location of the land parcels, land status, types of land use or existing property values. There is still a chance for this difference to be discussed through the same perception so as to produce agreement in the minutes. Because the receipt of replacement money for right holders will be influenced by the basic value of the determination and the size of the land parcels or the location of the land to be released as well as the existing property values, which has the potential to cause differences in income. This means that deliberation is only possible to seek agreement on differences in physical data and juridical data on the land area to be released. Or it can be said that deliberation is a space to equalize perceptions of physical data as well as juridical data on land objects to be released.

This is because the compensation value has been determined by the appraisal team using the land value zone. Use of the land zone value on the land to be released by taking the benchmark land value at the announcement of the location determination. The use of land value zones as compensation values is the authority of the state with a public aroma. In fact, the land value is not in a shifting area between the two points, namely that determined by the assessment team and the wishes of the rights-holding community. Because the determination is fixed and definite. So that what is open to deliberations for shifting is the improvement of physical data and / or juridical data on the land to be released.

Thus, in fact the determination of the replacement value of land is not deliberated but determined. Opportunities for deliberation are available if there is a mismatch regarding the land object being assessed, for example due to mismatching of the size of the land parcels, the mismatch of the subject of the rights holder, the location or status of the land over the land. It was found that there was more than one proof of tenure and another. At least with this stipulation, there is no longer room for deliberation on the determination of the value of the replacement money.

Thus, in fact, the content of Article 37 regarding the means of deliberation resulting from the assessment of the appraisal team in relation to Article 34 and also Article 26 is not at the level of deliberation to determine the value of replacement money, but on the same perception of land objects to be released. The object of the deliberation is only limited to the mismatch of physical data or juridical data on the land to be replaced. Not deliberation on the determination of replacement value. Because the replacement value is the authority that has been given to the

public assessment team which is announced to the public in the form of a determination. The public assessment team is an extension of the government which uses its authority to make decisions. There is a possibility that changes can be made to the existing stipulations, of course, on the basis of reasons that can be justified using error clauses, not on the basis of deliberation.

Thus, even though the fourth paragraph, the fourth part, Chapter IV of Law no. 2/2012 using the subtitle Deliberation on Determination of Compensation, in fact the content is an equalization of the perception of physical data and juridical data on land objects released, through compensation.

## **2.2 Settlement of Rejection of Compensation Value**

Provision of land for public needs with the aim of providing land for the implementation of development in order to improve the welfare and prosperity of the nation, state and society. By continuing to guarantee the legal interests of the right holders who prioritize the principle of balance in the activities of relinquishing rights to land.

The estuary of providing land is a legal act of relinquishing rights by breaking the legal relationship between land rights holders and handing them over to the state. Relinquishment of rights is compensated by an appropriate and fair compensation. It's just that in reality there are people who do not agree with the results of the assessment of compensation which are properly and fairly stated. Although this word worthy is also still a possibility to cause debate. If the principle of compensation is used that is in accordance with the real situation, it may still be closer to the real situation on the ground, so that prosperity can be achieved for the community and prosperity for the country.

If the relinquishment of rights is in the form of compensation with an agreement of an amount of money, then the amount of this replacement money is determined by an independent public assessment team. The replacement value for land is based on the existing land zone values. But because compensation does not only concern land alone, but includes other properties, such as buildings, land use and use, the value of plants and other objects related to land. The determination of the value of compensation for land parcels is based on the determination of the appraisal team, but there is still a chance for resolution if there are differences of views through deliberation forums or dialogical common perceptions regarding differences in physical data or juridical data on land parcels.

Deliberative activities are held by the land office with entitled parties within a maximum time limit of 30 working days. This period commences from the time the appraiser's results are submitted to the Land Office to determine the form and / or amount of compensation. The results of this deliberation are written in the form of an official report.<sup>24</sup> Based on this Article 37, the land agency should have succeeded in producing a report on the results of the deliberation regarding a unanimous agreement or whether there were rights holders who disagreed.

Deliberation as a private space may fail to produce an agreement because the two camps do not move from their point of difference. The failure of this deliberation is characterized by not accepting what is offered by one of them and remaining in their respective positions and conditions and rejecting the agreement and being on different sides.

Refusing to agree results in rejection and is a conversion of dispute. The settlement of the agreed refusal to the deliberative forum in the provision of this land has been given a settlement channel by involving the breaker by resolving the dispute legally, namely:

- a. Settlement through state administrative courts for refusing the location of land provision;  
and

- b. Settlement through general courts for the rejection of the value of replacement money determined by the appraiser.

If the disagreement over what is being offered is related to the value of the replacement money, then the aspirations can be channeled by involving the local breakers using litigation in district courts. You do this by submitting an objection request to the District Court. To be able to file an objection is given a time limit. The period for filing this objection is limited by time or expiration. By entering the expiration time area, it is deemed to have received the stipulated amount of compensation.

A lawsuit or petition filed in court is a claim for rights. According to Sudikno Mertokusumo<sup>25</sup> a claim for rights is an action that aims to obtain the protection of the rights provided by the court to prevent *eigenrichting*. Parties who file claims for rights need legal protection, by way of filing a lawsuit. This means that the requirement to file a lawsuit or application is that there are interests that must be protected.

An interest is filed with a lawsuit if the legal relationship has not provided certainty and confirmation is requested with a court decision. Meanwhile, the petition is submitted when the legal relationship already exists and the court only acts as a legality provider by giving a ruling. In several court proceedings, there were also claims for rights that began with a petition but demanded as *petitum* a court decision and not a verdict, such as a bankruptcy filing case and a petition filing an objection to the compensation determination

For rights holders who do not agree with the value of compensation for the release of rights, a solution has also been provided through Article 38 paragraph (1) of Law no. 2 of 2012. The settlement taken is in the form of filing an objection to the district court within a maximum of 14 days, after which the results of the deliberation are recorded in the minutes. The period of time provided is very sensitive, if it is not utilized by the objecting right holder, then by law he is deemed to have accepted the form and amount of compensation, as stated in Article 39 of Law No. 2 of 2012.

To be considered to accept is a legal state of something that actually does not exist but is considered to exist, in line with the fictional theory. Article 39 contains a theory of fiction (*rechtsfictie*)<sup>26</sup> that there is no written objection within 14 days after the results of the deliberation to reach a consensus, then without any action the objecting party is automatically deemed to have received the form and amount of compensation as obtained from the assessment team's assessment. And the law also considers that there has been a relinquishment of land rights by way of depositing replacement money at the court.

By depositing the reimbursement money in court, the consequence is that his rights to the land are cancelled, because the land has been released to the state and the certificate of proof of his rights no longer has the strength of evidence. This 14-day period contains expired or overdue payloads. It is necessary to set a time limit of 14 working days for filing an objection relating to demands for legal certainty. Article 1946 of the Civil Code determines; "Expiration is a tool to obtain something or to be exempted from an engagement with the expiration of a certain time on the conditions determined by law".

This means that expiration contains the content of the method of getting something or being freed from something. Meanwhile, the content of expiration in Article 39 means loss of the right to file an objection. Whereas if the right holder does not file a claim within 14 days from the result of the deliberation, then his right to demand that the court examine and decide the value of compensation that he wants to be written off, vanishes, and what is binding is what has been offered in deliberation only.

It can also be said that the person concerned no longer has the right to file his objection because he is deemed to have accepted the results of the deliberation. Objections filed in the District Court using the provisions of the civil procedure law. Whereas in general in civil cases in the courts the principle applies that the initiative to file a claim for rights is fully left to the person concerned.<sup>27</sup> In the event that an objection is filed against compensation, on the basis of Article 39, the initial right is limited to a period of only 14 days, after which the right to file an objection disappears.

Article 1967 of the Civil Code stipulates "that all legal claims, both material and individual in nature, are nullified because they have expired after 30 years have passed, while whoever shows the expiration does not have to demonstrate a reason for rights, nor can an objection be filed against them. based on bad faith. "

The difference between expiration according to the Civil Code and Law no. 2 of 2012 can be resolved using the legal principle of *lex specialis derogat legi generalis*. Special law overrides general law. This means that the provisions of the Civil Code as a general provision regarding expiration are set aside and what is binding is the expiration rule in Law No. 2 of 2012, which specifically applies to the release of land for development in the public interest only.

The time limit for filing an objection within 14 days of the failure of the agreement should be tolerated. Because differences of opinion regarding reimbursement of land rights relinquished money are not only recently known. But differences of opinion have been going on since the process of announcing the location determination of the release of rights. And also, the parties to the dispute were also known from the start. That is, one side of the community members as the holders of the rights to the released land who do not agree with what the land office and institutions requiring land offer.

File an objection to the court, as a step forward from the previous disagreement of rights holders on what the Land Office offers. It is considered reasonable to set a time limit, to get certainty. Because development activities for public purposes have been planned and with financing involving investors. For investors, the delay in the process of providing land has also resulted in delayed activities.<sup>28</sup> This also has implications for cost overruns and other risks. So that with certainty using the expiration mechanism, it can minimize unexpected risks.

If the objecting party does not submit their objection to the court or if they do not want to accept the replacement value, then by using the rules of Article 39 of Law no. 2 of 2012 has also provided solutions so that there is certainty. It can also be seen that the government as the party responsible for providing land through the land office as an extension of its arm is reusing public authority in resolving objections. The mechanism for filing an objection is further regulated by Perma No. 3 of 2016.

Article 5 of Perma No. 3 of 2016 corresponds to Article 39 of Law No. 2 of 2012 that objections are filed no later than 14 days after the results of the deliberations on Determination of Compensation. Then Article 14 paragraph (4) Perma No. 3 of 2016, determines; Trial examinations are carried out without the submission of exceptions, reconventions, interventions, replications, duplicates and conclusions by the parties. It can be seen that the procedural arrangements in filing an objection to the determination of compensation because the release of land for development is regulated simply. Given that the court must decide on this objection within 30 days.

With regard to this objection, the defendant party, of course, is the land office and the institutions requiring land must respond to the basis for the petitioner's objection. This includes responding to the applicant's right to file an objection due to the provision on expiration time as regulated in Article 38 paragraph (1) and Article 39 of Law no. 2 of 2012.

In order to provide an answer to the petitioner for objection, the respondent may perform principal and or exception countermeasures.<sup>29</sup> In connection with the submission of an application that has passed the time limit of 14 days, the respondent can ward off with the exception that the time limit for submitting an application has exceeded the time limit of 14 days since the result of deliberation.

Thus, based on Article 39 of Law no. 2 of 2012 the applicant is deemed to have received the form and amount of compensation, so the court should declare the petition unacceptable. Although Article 14 paragraph (4) Perma No. 3 of 2013 that proceeding in filing an objection does not recognize exceptions. Of course, the respondent can use an exception to deflect the reasons for the petition. With regard to the provisions of the expiration, it is interesting to explore Case No. 561 / Pdt.P / 2017 / PN.Tng. In this case, apart from objections to the determination of the compensation value, there is also an apparent lack of clarity from the parties regarding the expiration provisions. The Petitioner based the expiration on the view that there had been no deliberation on the determination of compensation, and based the starting period for filing an objection on the existence of the Tangerang District Court Consignment Determination No. 39/ Pdt.P.Cons / 2017 / PN. Tng. June 15, 2017. Meanwhile, the objection request was submitted to the Court on July 12, 2017, even then it has exceeded the specified time limit of 14 days. From the available decision data, three meetings were held to get the following deliberations.

- a. The first deliberation, according to the Minutes of Agreement No. 947 / BA-7.36.03.100 / XI / 2016 dated 10 November 2016 which was attended by 49 people according to the attendance list;
- b. The second deliberation according to the Minutes No. 83 / BA-7.36.03.300 / I / 2017 dated 17 January 2017 and;
- c. The third deliberation according to the Minutes of Agreement No. 308 / BA-7.36.03.300 / II / 2017 dated 16 February 2017 to determine compensation for land acquisition for the construction of Runway 3 at Soekarno Hatta International Airport.

From the verdict data it can be seen that the land office tends to be lax in using its time. Article 37 precisely stipulates that the land office is given time to conduct deliberations with rights holders within a maximum period of 30 days. The Tangerang District Court Decree No. 39 / Pdt.P.Cons / 2017 / PN. Tng. June 15, 2017, regarding the consignment of the value of compensation for losses. But in case No. 561 / Pdt.P / 2017 / PN.Tng, in fact, the deliberations took place in a relatively long period of approximately three months. If seen from the available data, the expiration period should be calculated as 14 working days from February 16, 2017. Meanwhile, the objection request was submitted to the court on July 12, 2017.

In his exception the respondent asked the judge who examined, tried and decided the aquo case to reject the objection submitted by the petitioners, or at least declare the petitioners' petition unacceptable (Niet Ontvankelijk Verklaard). Although the objection against expiration was submitted by the respondent, in fact the court was of the opinion that there was no need to discuss the problem of filing the application period because based on Article 5 of Perma No.3 of 2016 it was stated that the court did not recognize exceptions in examining and deciding cases filing objection requests.

Thus, the Tangerang District Court is of the opinion that it is not necessary to consider the exception filed by the respondent because it has fulfilled an orderly manner in the filing of the objection, so that the examination is only related to the substance of the objection. In its decision, the Tangerang District Court rejected the objection raised by the applicant, even though it ignored the expired provision.

The Tangerang District Court's decision rejecting the applicant's claim is understandable. Because the applicant's demands are related to changes in the amount of compensation money submitted by the appraiser. In this case, of course, the assembly takes decisions based on the provisions of Law no. 2 of 2012 concerning public authority in determining compensation money. If only the respondent had an issue with the physical data and juridical data, of course the panel would examine the evidence that reflected justice according to the law.

In order to avoid disappointment of the entitled parties in submitting objections due to the expiration of the time limit given by the law, it would be better if during public consultations or deliberations on land replacement perceptions to be conveyed or socialized regarding the validity of the time limit for filing objections to the local community and its consequences. for rights holders.

### **3 Closing**

#### **3.1 Conclusion.**

a. The deliberation is not to get an agreement on the difference in the replacement value of the relinquishment of land rights, because the price value has been based on the determination of the public appraiser based on the value of the land zone determined by the land office. Objects that are within the scope of the deliberation are related to differences in physical data and juridical data on land parcels that are incompatible. This means that the value of compensation is not deliberated but as a result of an assessment by a public appraiser which is a determination with the aroma of public authority in the form of a determination.

Meanwhile, consultations with private aromas can still be negotiated in the deliberations. Deliberation means starting with an offer, only then is the offer agreed or rejected or agreed by changing the offer. In essence, deliberation is not about the difference in reimbursement assessments by public appraisers, but is related to equating physical data or juridical data on land parcels to be released.

b. The settlement of the rejection of the replacement offer has been provided by Law no. 2 of 2012 by submitting an objection to the court. To file this objection is limited to the expiration provisions as stipulated in article 38 paragraph (1) and article 39 of Law no. 2 of 2012, which is only 14 days after the failed deliberation attempt. If the stipulated period of time is not utilized, it is assumed that the right holder has received the stipulations.

#### **3.2 Suggestion**

a. So that in determining the valuation of the replacement money, it is not stated through deliberation but at the price set by the appraiser. Public appraisers in determining land values based on land zone values. Meanwhile, for the replacement of land use, the value of plants, property or other objects related to the land for discussion. It is hoped that the community in the land acquisition location can understand the existence of land zone values. It is also hoped that the district or city land office can conduct an annual evaluation of the value of the land zone in its territory.

b. It is better if the announcement of the determination of the construction location for the public interest, it is also informed that right holders who do not agree with the provision of compensation only have limited time to file objections to the district court. With the

expiration of this period and not raising any objections, the law assumes that the community has received the stipulated compensation value. Rightsholders who continue to object will be resolved by consignment by depositing the replacement value at the local district court. This has resulted in the release of rights over the land parcels.

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