

Pologoro Problems as Village Genuine Income

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Abstract. Pologoro, a village levy, has been enforced by the village government of Harjasari for generations, but its legal position is unclear. This study employs an empirical normative approach to examine the implementation of Pologoro in Harjasari Village and the problems it poses as a source of income. Data collection was conducted through traditional and online literature searches, with qualitative data analysis presented in a narrative-descriptive manner. The findings reveal that Pologoro is still charged at 1.5% to 2% of the land selling price without the knowledge of the village head or village secretary, as land purchases were initially handled by the pamong without reporting to the village officials. This rule has been revised in the past two years, requiring the village head to be informed of the location and purchase price of the land to prevent excessive charges. The issue is that village administrators consider Pologoro beneficial for economic reasons, but the community complains about it as an additional burden. Furthermore, the Pologoro practice in Harjasari Village contradicts applicable laws and regulations, as it is categorized as an illegal levy and considered an act of corruption.

Keywords: Village, Law, Pologoro

1. Introduction

The village government of Harjasari has enforced pologoro for generations from the previous government. The community pays pologoro because they think that every individual who acquires or buys land has an obligation to pay pologoro to the village government where the land is located and this custom has been hereditary until now. The term pologoro is used by the people of Harjasari Village, Suradadi District, Tegal Regency to refer to a fee applied in buying and selling land where the cost is given by the land buyer to the village. In the process of buying and selling land, the amount of pologoro as referred to in customs and habits is often carried out by village officials or heads of villages long beforehand and they have determined the amount of pologoro, which is set at a maximum of 2% (two percent) of the NJOP (Sales Value of Tax Objects). . The amount of pologoro referred to is at least Rp. 200,000.00 (two hundred thousand rupiah)[1–3].

Pologoro is basically a culture or custom inherited from the colonialists which used to be a levy or a people's tax that was attached to village officials. It turns out that these customs and cultures have been carried over to the present day, which seem to have become rooted habits and become customary law which also has sanctions, namely social sanctions. Pologoro is a form of levy or deposit of a certain amount given to village officials, as a donation from residents for village government operations, while Pologoro is not mentioned in the legal requirements for the transfer of land rights in the form of buying and selling at the Land Deed Making Officer[4–6].

Due to its dual function as both a social asset and a capital asset, land has significant significance in human life. In accordance with the rule of demand and supply, the value or price of land increases significantly when the amount of available land decreases and the demand for land increases. Since the implementation of Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Agrarian Regulations, the definition of purchasing and selling land is no longer an agreement, as stated in Articles 1457 and 1458 of the Civil Code, but rather legal action against the transfer of land rights. Certain legal actions, including grants, sales, and others, can be considered to facilitate the transfer of ownership of rights.[7,8].

A legal relationship exists between the buying and selling events that result from legal acts taken by the seller and the buyer. A legal relationship (*rechtsbetrekkingen*) is a relationship between two or more legal subjects in which one party's rights and responsibilities affect the other party's rights and responsibilities. To qualify as a legal connection, the law specifies requirements for particular relationships.[9,10].

A legal tie exists between the buying and selling events precipitated by the seller and buyer's legal acts. A legal relationship (*rechtsbetrekkingen*) is a relationship between two or more legal subjects in which the rights and duties of one party affect the rights and duties of the other. For certain relationships to be considered lawful, the law imposes specific requirements.:

1. How is the practice of implementing Pologoro in Harjasari Village?
2. What is the problem of Pologoro as the original income of Harjasari Village?

2. Method

This research kind is library research. Library research is research undertaken by means of literature study in the form of secondary data as the basis for research by conducting a search of relevant rules and other publications. This research involves library research since it deals directly with the data or text offered, not with field data or eyewitness accounts in the form of events. Therefore, researchers only deal directly with sources that are already in the library or ready-to-use data, as well as secondary data. used.

The methodology employed in this study is empirically normative. Empirical normative refers to a comprehension of law in the sense of norms or rules and the execution of legal rules in real behavior, as well as proof of behavior that is proper or inappropriate in light of normative legal laws (statutory regulations and other written documents). This study employs an empirical normative approach because it examines the implementation or implementation of positive legal provisions or legislation and documents in reality (in action) on certain legal events that occur in society, so as to determine whether or not interested parties achieve their goals.

The data source utilized for this study is secondary data. Secondary data are data sources that do not offer data directly to data collectors, such as other persons or documents. This study relies primarily on secondary data because it is freely accessible in books, scientific journals, and other written sources.[11–14].

This strategy for collecting research data involved traditional and online literature searches. Conventional literature searches are conducted by visiting libraries, purchasing books and journals, and participating in scientific events (seminars). Utilizing a search engine, internet-based searches are conducted using a search engine. This research utilizes traditional and online library search strategies because it is useful for acquiring a theoretical foundation by examining books, rules and regulations, documents, reports, archives, and other printed and electronic research findings pertaining to the subject of study.

This research employs a qualitative approach to data analysis. Qualitative data analysis is an attempt to comprehend phenomena about what study subjects experience, such as behavior, perceptions, motivations, and actions, holistically and through descriptions in the form of words and language, in a natural setting with the use of natural methodologies. This study employs qualitative data analysis since the data will be presented in a narrative-descriptive format rather than numerically.

3. Discussion

3.1. Practice of Pologoro Implementation in Harjasari Village

The state's recognition of land rights makes the state obliged to guarantee legal certainty of land rights by holding land registration by issuing certificates as evidence of land ownership. Before the certificate is issued, there is evidence of land called letter C, girik, petuk D or kekitir. Girik is the only evidence of land ownership prior to the enactment of the Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Principles and its existence is still recognized today[15–17].

The right to govern land is a concrete legal connection if it is associated with a specific parcel of land as the object and a specific individual or organization as the subject or holder of the rights. Land ownership rights may be transferred through inheritance or transfer of rights in accordance with applicable legal provisions, with the transfer of rights being carried out by deed of the Land Deed Making Officer and registered at the agrarian office or land office of the district or municipality involved. The transfer of rights by inheritance is the transfer of rights that occurs by operation of law at the demise of the heir, although land rights can be transferred by purchase and sale, exchange, and grants.

Today's economic development is so rapid, the business world is so advanced. So it cannot be denied that with the advancement of business fields, capital is needed, which includes land. Land is a very valuable property. Land does not only have economic value, but also has religious, socio-cultural, political and defense values. This is the reason why buying and selling land is very important and requires legal protection and legal certainty in terms of regulation and implementation.

One way to obtain tenure over land is by buying and selling land. Private rights to land or known as property rights are hereditary, strongest and fullest rights that a person can have over land, with broad authority for the owner to control, process and own it, subject to the limitations of the social functions of land ownership. Through the freedom of authority and power of the owner of the right, land ownership rights can be transferred and transferred. Land rights owned by some groups of people are often not supported by strong evidence of ownership. Ordinary people really believe that the actual evidence in the eyes of the law is not yet strong enough to be used as land ownership rights, such as proof of tax payments in the form of girik, tax receipts, and Ipeda (Local Government Fees), even regarding the type of land rights themselves many are confused. can't tell the difference.

Harjasari Village is one of the villages located at the southern tip of Suradadi District, Tegal Regency. With an area of 630.1 hectares. Harjasari Village is the second largest village after Kertasari Village in Suradadi District. The population of Harjasari Village is around 12,960 people including 6661 men and 6299 women as of December 2022.

The majority of the residents of Harjasari Hamlet are farmers, as the majority of the village is comprised of rice fields, while the majority of the younger citizens work in the capital city or in other cities. The economic potential of the tourism industry in this village is

likewise highly promising. Harjasari Village's form of governance, which is still led by the village chief and is in the shape of a village, ties it closely to still-established traditions. It is the same when purchasing and selling land, which is still common. Many residents of Harjasari Village entrust their village chief with the purchasing and selling of land.

The definition of buying and selling land according to custom is the procedure of purchasing and selling uncertified land in front of the village chief. The village office contains documentation of land ownership information in the form of letter C or letter D agenda books. Prior to the passage of Government Regulation No. 10 of 1961, land ownership rights were not supported by a certificate from the land office, but rather by documentation of ownership rights administered in the village, such as letter C. or letter E certificates. The agenda book contains information on the landowner and the land's area that can be used as proof of ownership so that land transactions conducted in accordance with local tradition are valid. Harjasari Village has both certified and uncertified land within its borders. Land that has not been certified is purchased and sold in accordance with local tradition, but certified land does not require the presence of the village chief. In Harjasari Village, there are two sorts of land transactions: those conducted based on customary law through the village head and those conducted through a Land Deed Making Officer for certified land.

There is basically no charge for managing the sale and purchase of land through the village. Fees are submitted voluntarily by the residents who make the transaction. The form is in the form of village treasury money for the cost of measuring land and managing the sale and purchase of land. At first this fee was referred to as *pologoro*, but based on the latest regulations the village government is prohibited from collecting *pologoro*, so that the cost of managing the sale and purchase of land becomes village treasury money.

The legal basis for the obligation to pay *pologoro* in buying and selling land is the Decree of the Governor of Central Java Number 143/225/1984 concerning the Determination of *Pologoro*, concerning changes to Article 17 letter b Appendix III to the Decree of the Governor of the First Level Region of Central Java dated 23 February 1976 Number. Huh. 16/1976 jo. April 3rd 1970 No. AG. 15/1978. Article 17 letter b states that *Pologoro* is 1% of the estimated compensation for each plot of land including plants and buildings with a maximum of Rp. 100,000 (one hundred thousand rupiah).

Pologoro is needed by the village community because it is related to the understanding that the perpetrators are not just giving money to village officials for their testimony in land buying and selling transactions, but what is more important is the willingness to protect post-transaction security by the village head. This means that the parties involved in the transaction, if one day bad things happen to them, they will come again to the village head to ask for legal protection. The village head has an obligation to protect it.

For the practice of buying land in Harjasari Village, they still collect *pologoro* without the knowledge of the village head or the village secretary because initially the land purchasers were taken care of by the *pamong* closest to the land seller and the results were only for the *pamong* without any reports to the village head or the village secretary. This rule has only been revised in the last 2 (two) years, that the village head must know the location and purchase price of the land so that there are not too many charges. The levies that occurred were only carried out by several old village officials so that *Pologoro*'s money did not enter the village treasury. Those who are still collected are very objectionable and for village officials they are afraid that they will become illegal levies.

There is no standardization and the amount of the tariff varies between villages. There are individuals that apply 1% to 2.5% of the transaction price, but the amount is only established at Rp. 150,000 (one hundred and fifty thousand rupiah) to Rp. 250,000 (two

hundred and fifty thousand rupiah) in numerous village rules (two hundred fifty thousand rupiah). In general, the village chief charges a pologoro fee of Rp. 500,000 (five hundred thousand rupiah), and some even charge as much as Rp (one million rupiah). This sum is seen as extremely burdensome for the community.

Pologoro's obligation to transfer land rights is based on the historical elements of the community, which hold that legal acts of land transfer involve the existence of human habitation and other living things as sacred, which cannot be done at will and must be known by the local authorities or the head. In addition to these causes, the transfer of land rights before the village head occurred because the village head did not comprehend the agrarian law laws and regulations outlined in the Basic Agrarian Law and its implementing regulations, particularly Government Regulation Number 24 of 1997. This resulted in the community's transfer of land rights not being in conformity with existing legislation, so there is no assurance of legal certainty in the community. Some village leaders believed they had the ability to facilitate the transfer of land rights for both approved and uncertified land.

The transfer of land rights is the act of transferring or transferring land ownership from one community to another. A land right will transfer if the ownership is transferred to another person through a legal action, but if it is transferred as a result of a particular legal event, such as the death or death of a person, the inheritance is transferred to the heirs, then the inheritance is transferred to the heirs. The transfer of land ownership to a new owner as a result of specific legal actions or actions. Legal activities can be interpreted as any actions performed by legal subjects that are susceptible to legal repercussions.

Every transfer of land rights must be reported to and accompanied by the Pologoro fee. Some communities are concerned that if they do not handle the transfer of land rights through the village head, it will be difficult to obtain papers for population administration and other purposes in the future. In a few of villages, community members are required to process all things, including land transfers, through the village chief. If this is not done, the community members will be intimidated by dishonest village leaders who have exceeded their authority, forcing many community members to involve the village leader in their land transactions.

3.2. Problems of Pologoro as Original Income for Harjasari Village

The village as the organizational structure of the lower level of government is the spearhead for the country's development. The better a village carries out development and provides services, it will support the role and duties of the government in providing maximum service to the wider community. Therefore village development and empowerment is needed in order to form villages that can provide services and carry out development programs optimally.

The increase in village income sources makes village financial management a very substantial matter and needs to get the joint attention of stakeholders, both the central government, regional governments, regional financial practitioners, village heads and Village Representative Bodies and the wider community. Village financial management must be directed, implemented, and managed properly and correctly according to applicable regulations. In addition, village financial management must also be able to prioritize transparency and accountability so as to create village financial management that is orderly, obedient to laws and regulations, efficient, effective, and provides benefits for the welfare of the community.

Village government income comes from village original income, results of self-help and community participation, results of mutual cooperation, sharing of regional taxes and fees, financial assistance from the government, provincial government and district/city government

(performance), and grants from district government (returns self-subsistent). Village original income is income obtained through the results of the business carried out by village officials whose profits are used for community empowerment. According to the Regulation of the Minister of Home Affairs Number 20 of 2018 concerning Village Financial Management, the village's original income is in the form of village business results, asset results, self-help results, participation and mutual cooperation, and other village original income.

Sources of income originating from the village's original income as a source of financing for the administration of village governance should be able to demonstrate the independence of the village as an autonomous government unit. Management of village original income does not mean exploitation of all sources of village original income management, but how the village government is able to optimize the management of the village's original income in accordance with its potential, which can then be allocated for the implementation of village development.

The village's original income comes from levies to residents who request certificate services. For example, residents who ask for a cover letter get an ID card, driver's license, land certificate, police record certificate, and a building permit. The results of self-help and community participation and the results of mutual cooperation are not in the form of money but in the form of labor valued in money. Regional tax and retribution revenue-sharing originates from wages collected for the collection of Land and Building Tax. Allocation of village funds comes from the District Revenue and Expenditure Budget from balancing funds obtained from the APBN. Funds from the National Community Empowerment Program (PNPM) come from the central government to build village infrastructure and empower the people's economy. The expenditure budget consists of indirect spending, subsidy spending, grant spending, direct spending, goods and services spending, capital spending, and unexpected spending.

Pologoro is one source of village fees. Pologoro is considered a form of village levy that occurs due to the transfer of land and building rights in the village concerned. The term pologoro comes from the practice of village government during the Dutch colonial era where the colonial government gave permission to village heads to ask for service fees for transactions sale and purchase of land. The habit of collecting money by the village from villagers also occurs in the Batak people as pago-pago or wongwitness, in Lampung it is called pebasuh pungur, in the Dayak it is called turus which means to take care of or get involved.

It should be noted that the sale and purchase of land is basically carried out with the help of the Land Deed Official. In connection with the provisions in Article 37 of Government Regulation Number 24 of 1997 concerning Land Registration which stipulates that the transfer of land and ownership rights to land and ownership rights to apartment units is through buying and selling, exchange, grants, income in companies and other legal acts of transferring rights. , except for the transfer of rights through an auction, can only be registered if proven by a deed drawn up by an authorized Land Deed Official according to the provisions of the applicable law.

Pologoro in its implementation is authorized by village officials in accordance with applicable regulations. Pologoro was handed over to the village party who took care of the letter proving the ownership of the land. Evidence of ownership is in the records or data kept by the village office which is under the management of the village head.

In fact, the Pologoro levy was not mentioned in the legal requirements for the transfer of land rights in the form of buying and selling at the Land Deed Making Officer. This Pologoro appeared and was raised by village officials who at that time were parties who assisted in the process of buying and selling land, because it had been done long ago and

passed down from generation to generation, it was considered an obligation that had to be carried out, an entrenched custom, so it was considered law.

It can be said that pologoro is habituation which later becomes a habit so that it rises in rank as law which if it is not carried out, it is considered a violation of the law, because pologoro is a product of habituation which becomes a habit, usually sanctions are given more to social sanctions from the surrounding community. The amount of pologoro is also not the same, depending on the community's agreement with village officials, usually stated in a decision letter of the Village Community Consultative Body.

The problem that occurs is that for Harjasari Village administrators, Pologoro is considered good and tries to be maintained because it brings economic benefits. But for the community, Pologoro is very much complained about because it gives an additional, burdensome burden. According to the community, in the current context it is no longer relevant to defend Pologoro because the position of the village head and village secretary in the sale and purchase transaction is only as a witness. The post-transaction protection function is no longer there. Even if it is maintained, it should not use a certain tariff but voluntarily, such as giving a donation when asking for a statement from the village.

In addition, the pologoro practice that occurred in Harjasari Village was contrary to the provisions of the applicable laws and regulations because the village head felt he had the right to process the transfer of land rights, even according to them, by handling the transfer of land rights, it could provide income for his village income. Based on Government Regulation Number 72 of 2005 concerning Villages and Based on Government Regulation Number 24 of 1997 concerning Land Registration, it can be explained that the village head has absolutely no right to manage the transfer of land rights, both for land that has not been certified and for land that has been certified. The village head is only entitled to participate as a witness and as one of the land registration adjudication teams for land that has not been registered (not yet certified).

In fact Pologoro is a dualism of the position of the village in its implementation practice. Where the village has the status of a customary entity and acts as a government entity at the same time. As a customary entity, the village draws the Pologoro levy to those concerned based on their origin rights. This right was inherent before the birth of the State of Indonesia in 1945.

The habit of the village head withdrawing the Pologoro levy from sellers of land and buildings in the village is considered illegal. The legal basis established by the Governor of Central Java at that time was that Mr. Soepardjo Rustam had legalized pologoro with a circular letter which at that time was subject to a maximum fee of Rp. 100,000 (one hundred thousand rupiah), but the circular letter was revoked during the leadership of Governor Suwardi. Even so, with the existence of a circular letter, the Pologoro levy cannot be said to be legal. Circulars are not included in the law, meaning that this levy has been illegal from the beginning, unfortunately until now the Pologoro levy is still entrenched and there has been no correction by the public.

There is a development of the applicable positive law, based on the principle of *lex specialist derogat lex generalis* the application of pologoro has been prohibited because it is categorized as illegal levies which is categorized as an act of corruption based in the Law of the Republic of Indonesia Number 31 of 1999 in conjunction with the Law of the Republic of Indonesia Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption. Based on the Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration of the Republic of Indonesia Number 1 of 2015 concerning Guidelines for Authority Based on Origin Rights and Village-Scale Local Authorities, pologoro can be

categorized as a prohibited levy, as well as the existence of government programs based on Government Regulation Number 87 of 2016 regarding the Task Force for Cleansing Illegal Levies which has the task of eradicating all kinds of levies including pologoro. Pologoro is considered a burden to society because of the varied withdrawals of Pologoro.

4. Conclusion

Based on the results of research and discussion it can be concluded as follows :

1. The practice of buying land in Harjasari Village still charges a pologoro of 1.5 to 2% of the selling price of the land without the knowledge of the village head or village secretary because initially land purchases were taken care of by the pamong closest to the land seller and the results were only for the pamong without there is a report to the village head and the village secretary. This rule has only been revised in the last 2 (two) years, that the village head must know the location and purchase price of the land so that there are not too many charges.
2. The problem that occurs is that for Harjasari Village administrators, Pologoro is considered good and tries to be maintained because it brings economic benefits. But for the community, Pologoro is very much complained about because it gives an additional, burdensome burden. In addition, the Pologoro practice that occurred in Harjasari Village was contrary to the provisions of the applicable laws and regulations because it was categorized as illegal levies which were categorized as acts of corruption.

Reference

- [1] Nurcholis H. Pelayanan Publik Di Desa". Jurnal Ilmu Adminitrasi Negara-ASIAN n.d.;5.
- [2] Benuf K, Azhar M. Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer". Jurnal Gema Keadilan n.d.
- [3] Joni H. Tanah Sebagai Aset Sosial Dalam Perspektif Hukum Agraria Nasional". Jurnal Cakrawala Hukum n.d.;7.
<https://doi.org/https://jurnal.unmer.ac.id/index.php/jch/article/view/1787/1151>.
- [4] Maulidi MJ, Arba DM. Analisis Hukum Tentang Peralihan Hak Milik Atas Tanah Dengan Bukti Akta Di Bawah Tangan Sebagai Dasar Pendaftaran Tanah Untuk Pertama Kali (Studi Di Kabupaten Lombok Tengah)". Jurnal IUS 2017;V.
- [5] Simangunsong F. Kajian Penggalan Potensi Dan Peningkatan Pendapatan Asli Desa Di Kabupaten Sekadau Provinsi Kalimantan Barat". JAP n.d.;3.
- [6] Moleong LJ. Metode Penelitian Kualitatif, Cetakan ke-36. Bandung: PT. Remaja Rosdakarya Offset; 2017.
- [7] Rato D. Hukum Benda dan Harta Kekayaan Adat. Yogyakarta: LaksBang PRESSindo; 2016.
- [8] Muhammad A. Hukum dan Penelitian Hukum. Bandung: PT. Citra Aditya Bakti; 2004.
- [9] Isnur EY. Tata Cara Mengurus Surat-Surat Rumah dan Tanah. Jakarta: Pustaka Yustisia; 2009.
- [10] Hartanto A. Hukum Pertanahan Karakteristik Jual Beli Tanah yang Belum Terdaftar Hak Atas Tanahnya. Surabaya: Laksbang Justitia; 2013.

- [11] Soetomo. Pedoman Jual Beli Tanah Peralihan Hak dan Sertipikat. Malang: Universitas Brawijaya; 2000.
- [12] Hermansyah N. Pengelolaan Pendapatan Asli Desa Oleh Pemerintah Desa Dalam Meingkatkan Pembangunan Desa Di Kabupaten Ciamis”. Jurnal Moderat 2019;5.
- [13] Nurcholis H. Pemerintahan Desa: “Unit Pemerintahan Palsu” Dalam Sistem Administrasi Negara Republik Indonesia”. Politica n.d.;5.
- [14] Hartanto A. Panduan Lengkap Hukum Praktis: Kepemilikan Tanah. Surabaya: Laksbang Justitia; 2015.
- [15] Muslikah S, Sulisty. Pengaruh Pendapatan Asli Desa (Pad), Dana Desa (Dd), Alokasi Dana Desa (ADD) Terhadap Belanja Desa Bidang Pendidikan Dengan Jumlah Penduduk Miskin Sebagai Variabel Moderasi”. Jurnal Riset Mahasiswa JRMA 2020;8.
- [16] Yakub. Pengantar Sistem Informasi. Yogyakarta: Graha Ilmu; 2019.
- [17] Harsono B. Hukum Agraria Indonesia (Sejarah Pembentukan Undang-Undang Pokok Agraria dan Pelaksanaannya n.d.