

Legal Due To The Transfer of Rights to Agricultural Land to Non Agriculture In The City of Tasikmalaya

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ABSTRACT

In this study, the researcher uses the title Legal Strength and Authentic Deed Agricultural land is one of the ecosystem supporting the life of Indonesian citizen, fertile land into fruit that will produce food resources for all residents who are in the vicinity. In order to maintain food resources in Indonesia farmers must do the care and protection of plants that they plant whether rice, corn, or other plants that produce agricultural fruits. Good resources are resources that are continually given attention and management periodically to achieve perfect results in supplementary. In addition to the care of the farmers to realize an increasingly advanced ecosystem need the Government's efforts in supporting the advancement of food resources, because so the empowerment of nature and governance of each other is aligned and balanced, but it is not easy in the implementation necessary to build awareness to make it happen. Entering a new era as now the government is doing many changes and shifts on the basis to make it a source of income in a different field, as well as the transition of agricultural land function into a building or other building materials to achieve a faster outcome and the Kerab is considered more appropriate and luxurious. The transition of agricultural land is no longer a taboo in life as it is today, to advance the technology and development of a region or country of agriculture has become a major target of entrepreneurs and governments engaged in the field. The farmland turned into a building is a question of how validity is in the process of implementation. Because with the transition the land can affect the sustainability of the lives of the inhabitants and farmers around it. Because the manifestation of a seumber of natural power is to defend and develop it to keep it going.

Keywords: Agriculture, Land Transfer

1. INTRODUCTION

Soil is a natural ecosystem that can be used by humans in a variety of needs, from planting rice, fertilizing plants, building buildings, building houses and other human needs to burying human or animal crooks into burrows. A land will never be spared from agricultural land because agricultural land is very influential on the food and clothing of farmers to continue to produce and produce beautiful plants, food clothing needed or for raising livestock in agricultural land.

In general, land use is seen from the capability of the land and its location. If for agricultural activities, land use depends on the land capability class which is characterized by differences in the properties of the barriers to its use. Suparmoko said that land use is also seen in locations where the land is in residential areas, industrial locations, or for tourist areas (Sitepu et al., 2021).

The policy of changing the function of agricultural land made by a country, including Indonesia, is actually aimed at regulating the availability of agricultural land so that it remains stable and does not narrow, does not easily or quickly deteriorates and continues to function properly. As a result of the act or utilization of its inhabitants, because basically the transition of



agricultural land occurs due to elements that aim to sustain the lives of other humans (Rizal et al., 2021).

Since the issuance of Government Regulation number 22 of 1976 concerning the Establishment of the Administrative City of Tasikmalaya. At that time the city of Tasikmalaya was still a very small city but was able to develop much better than other big cities (Iskandar, 2013). The location of the main route apart from the island of Java in West Java Province, namely the city of Tasikmalaya, there are not a few investors who channel their funds to carry out development and invest capital for the business interests of investors, because of its strategic location and capable of providing potential for business development, apart from the city of Bandung, Jakarta and Semarang or other big cities Tasikmalaya City as one of the targets of investors to expand their business branches, they make the city of Tasikmalaya as the best choice city (Herdiansyah et al., 2016). This city which has a lot of natural beauty will develop very rapidly if it is able to utilize its natural wealth for the welfare of the city community itself. Currently, Tasikmalaya City has an area of 183, 8 km, with 692,567 inhabitants, has 10 districts and 69 sub-districts. Based on data from the Central Statistics Agency for the City of Tasikmalaya in 2019 on land parcels from several categories of land status, 92,185 Ownership Rights, 10,483 Building Use Rights, 893 Use Rights, 303 Waqf Rights, 3 Business Use Rights, and 3 Land Management Rights. This is a reference that the City of Tasikmalaya has experienced quite improved developments over the years.

From developments that cover several development sectors in Tasikmalaya City, it turns out that there are still many that have not been verified by temporary data. It is observed that the number of land parcels registered by the Tasikmalaya City National Land Agency is 103,870, while the facts in the field state that approximately 300 thousand lands have not been verified. This obstacle was caused by the difficulty of the community in completing the file registration process. This was also related to how the local government consolidated the community regarding the status of land ownership.

A similar problem is related and no less important is the transfer of agricultural land to non-agricultural. The conversion of agricultural land which is very worrying for the community in the construction of a building or hotel is not increasingly empowering the farmers, but rather the farmers who are being deceived. Farm land is getting less, iron, concrete and so on are planted for development purposes which are deemed insufficient to transfer the function of agricultural land properly. The welfare of the farmers lies in the source of the wealth of agricultural land which is the focus for maximizing the yields of the farmers in Tasikmalaya City (Latianingsih et al., 2019). This is in accordance with the principles and objectives of the protection and empowerment of the farmers to achieve sovereignty, independence, usefulness, efficiency, justice and sustainability.

According to the authors, a process of land use change carried out by the government can affect the economic, social and cultural sectors of the community in the local area, especially on soil fertility resulting in the impact of a decrease in national food production and many farm



workers who lose their jobs if this function change is not In accordance with the conditions and conditions of the community in the area, it will be very clear that the regulations for controlling the function of this land are very weak due to the uncertainty of government regulations and officials who handle the change of land functions in carrying out their duties so that it can be said that they deliberately shift the function of the agricultural land to function sectors in other fields (Roesli et al., 2017). With the change in the function of agricultural land which does not provide welfare to the community, there should be a firmness in the strength of the law, provide firmness to law enforcers, and provide sanctions for violations to those concerned in handling cases of transfer of agricultural land to non-agricultural so that there are no disputes or land disputes that cause legal uncertainty in its management in the future.

2. RESEARCH METHODS

This legal research uses the methods that will be described, as follows: Approach Method, Peter Mahmud argues that in legal research there are several approaches. The approaches used in legal research are statute approach, case approach, historical approach, comparative approach, and conceptual approach (Peter Mahmud Marzuki, 2011).

Ased on the explanation above, the type of research used by the author to compile this thesis is statute approach, conceptual approach, and case approach. The materials collected are then classified and then arranged systematically so that they can provide an answer or conclusion to the problem in the problem formulation.

3. RESULTS AND DISCUSSION

Factors Can Encourage The Transfer of Agricultural Land Use Functions To Non-Agriculture In The City of Tasikmalaya

The conversion of agricultural land functions can be caused by several factors including:

1. Internal Factors

Internal factors that are caused by a social and economic condition of agriculture, the character of the farmer from age, education, family dependents, land area owned, and the level of dependence on land. With the development of the times, many choose practical jobs that do not sweat too much, but usually enough income is from young people who want to work in industry and offices rather than in the fields. This can affect rural areas where most of the income to meet the needs of those engaged in agriculture is decreasing because they choose to go to cities looking for more practical work. Apart from that the increasing value of the rupiah and economic development, operational costs in land management also cause farmers to suffer losses, so that farmers prefer to switch and be shifted professions and their agricultural land to non-agricultural (Risna Diani, 2016)

2. External Factors



Factors that are due to changing urban growth dynamics. First, the growth of urban areas, the denser urban areas, the expansion of the suburban or rear areas of the city. Rural areas with population densities that supply food needs in urban areas have begun to urge the growth and development of increasingly dense urban populations. So that the land in the village has been converted into residential and industrial land. Second, the increasing population growth has resulted in more demand for living places, with the conversion of agricultural land into rural residential land used for housing, the density of development is considered to be the result of decreased growth in agricultural production, rice, maize, and others. Third, the economic factor is one of the factors that causes the increasing level of land demand in the economic sector, from tourism to trade centers. The economic crisis has also led to a change in the function of agricultural land, many of the farmers selling their land and plantation land to meet their daily needs.

3. Government Policy Factors

Weak regulatory aspects related to the issue of legal force, violation sanctions, and accuracy of land objects that are prohibited from being converted, and the lack of real action and unclear government steps in minimizing conversion of land functions that are converted.

4. Population Factors

As the population of an area increases, the community's needs will increase in the development of land for houses, businesses, industry and other public facilities. Evidenced by the table listed below based on the source of the Department of Population and Civil Registration of the City of Tasikmalaya.

Tabel 1. Jumlah Penduduk Dan Kepadatan Penduduk Per-Kecamatan Kota Tasikmalaya Tahun 2019

districts	Total population	%	wide (Km2)	Population density
Cihideung	73.372	10,19	5,49	13.365
Cipedes	82.108	11.40	8,96	9.164
Tawang	64.114	8,90	7,07	9.068
Indihiang	57.826	8,03	11,04	5.238
Kawalu	96.942	13,46	42,77	2.267
Cibeureum	68.604	9,52	19,04	3.604
Tamansari	75.970	10,55	35,99	2.111
Mangkubumi	96.834	13,45	24,53	3,948
Bungursari	59.064	8,20	16,90	3.495
Purbaratu	45.048	6,25	12,01	3.751
Total	719.882	100,00	183,80	3.917

Sumber : data.tasikmalayakota.go.id/dinas/kependudukan dan pencatatan sipil

In addition to population density which is increasing every year, the increase in people's living standards also plays a role and keeps up with the times.

The expanse of paddy land which was originally wide stretched then decreased due to the conversion of part of the residential area. Over time, the number of changes in the function of agricultural land is increasing, while on the other hand, the opening of new agricultural land from forest areas or other dry land (yards and plantations) does not meet the desired target.

5. Economic factors

Increase in the value of land rent obtained from the non-agricultural sector rather than the agricultural sector itself. Low wages or incentives for farmers due to the high cost of living and production costs, meanwhile the price of farming is relatively low, the needs of farmer families who are forced to follow the development of business capital needs or other necessities such as education, employment, or additional capital to support their families often make the farmers prefer to sell their land because they have no other choice (Risna Diani, 2016).

6. Increase in Community Needs for Settlements

When residential areas no longer meet the requested needs, conversion of agricultural land to housing areas becomes an option as a solution to this problem (Suriansyah Murhaini, 2018).

7. The high cost of running agriculture

To process rice fields or agricultural land from the soil layer in order to get optimal results, of course, requires a lot of capital, not to mention that if the products needed for agricultural processing have increased, such as when the price of fuel oil increases, the price can increase to two times. folding. The increase in the price of fertilizers, agricultural seeds, irrigation costs, to the rental price of farmers made rice owners consider selling their fields or converting the land into buildings or entrepreneurial places.

8. Decreasing Selling Prices of Agricultural Products

The selling price of agricultural products has become very low or even unsold in the market. If this happens, the farmers will suffer significant losses.

9. Change to Other Business Sectors

Along with the development of the times and knowledge, technology, and the increasing insight of agricultural land owners, not a few of them deliberately shift the function of agricultural land to other business sectors. With the hope that the economy can continue to improve, they have started to establish industrial places, animal husbandry, and other business places on their agricultural land.

10. Socio-Cultural Factors



The existence of inheritance law causes the fragmentation of agricultural land so that there is no minimum limit of profitable business economies of scale, weak control functions and the enforcement of government or institutional regulations related to the conversion of agricultural land functions. Regional autonomy which prioritizes development to increase Regional Original Revenue. In addition, there is a lack of interest in the younger generation in agriculture because several groups of people think that jobs in the agricultural sector are low income and are in the lower class.

There are factors that encourage the conversion of agricultural land functions, it is necessary to review the applicable regulations and legal basis to protect and ensure that the process does not occur arbitrarily. The conversion of land for sustainable food agriculture is basically prohibited from being converted. As regulated in Article 44 of Law Number 41 Year 2009 concerning Protection of Sustainable Food Agricultural Land. Exceptions that may only be for the public interest and some of the conditions in Article 44 paragraph 3 are :

- a. A strategic feasibility study was conducted
- b. A land conversion plan was prepared
- c. Released ownership of rights from the owner; and
- d. Provided replacement land for the converted sustainable food agricultural land.

Several points of regulation in Law Number 41 Year 2009 are related to the regulation of the conversion of protected agricultural land functions:

Article 44 paragraph (2) of Law Number 41 Year 2009 provides that; "In the case of public interest, Sustainable Food Agricultural Land can be converted and implemented in accordance with the provisions of laws and regulations."

Article 44 paragraph (3) of Law Number 41 Year 2009 provides that; "The conversion of land that has been designated as Sustainable Food Agricultural Land for the public interest can only be done with the following conditions:"

- a. A strategic feasibility study was conducted
- b. A land conversion plan was prepared
- c. Released ownership of rights from the owner; and
- d. Provided replacement land for the converted Sustainable Food Agricultural Land.

Article 45 of Law Number 41 Year 2009 provides that; "In addition to compensation to the owner, the party who converted it was obliged to replace the value of infrastructure investment."

Article 46 paragraph (1) of Law Number 41 Year 2009 provides that; "Provision of replacement land for the converted Sustainable Food Agricultural Land is carried out on the basis of land suitability with the following provisions:"

- a. At least three times the area of land in terms of being converted to irrigated land;

- b. At least twice the land area in terms of the conversion of tidal swamp (lebak) land reclamation; and;
- c. At least one time the land area in terms of non-irrigated land converted.

Article 46 paragraph (2) of Law Number 41 Year 2009 provides that; "The provision of food agriculture land as a substitute for Sustainable Agricultural Land must be included in the preparation of the Annual Program Plan, the Medium Term Program Plan (RPJM), as well as the Long Term Program Plan (RPJP), related agencies at the time the function transfer is planned.

Article 46 paragraph (3) of Law Number 41 Year 2009 provides that; "The provision of agricultural food land as replacement land can be done by:"

- a. New land clearing on Sustainable Food Agricultural Reserves;
- b. Conversion of land from non-agriculture to agriculture as Sustainable Food Agricultural Land, especially from abandoned land and land formerly forest areas;
- c. Establishment of agricultural land as Sustainable Food Agriculture.

Article 46 paragraph (4) of Law Number 41 Year 2009 provides that; "The provision of replacement land for the converted Sustainable Food Agricultural Land is carried out with the guarantee that the replacement land will be used by transmigration and non-transmigration farmers with priority for farmers whose land is converted in accordance with the provisions of laws and regulations."

Article 46 paragraph (5) of Law Number 41 Year 2009 provides that; "For the purposes of providing replacement land, the government will carry out an appropriate land inventory and maintain a list of these lands in an Information Center for Sustainable Food Agricultural Land."

Article 48 of Law Number 41 Year 2009 provides that; "In the event of a coercive situation which results in the destruction and / or damage of Sustainable Food Agricultural Land permanently, the Government and / or local governments replace the Sustainable Food Agriculture land as needed."

Article 49 of Law Number 41 Year 2009 provides that; "Replacement land for Food Agriculture is determined by:"

- a. District / City Regional Regulations in the case that the replacement land is located within a district / city in a province;
- b. Provincial Regulations in the case of replacement land located in two districts / cities or more in one province
- c. Government regulations regarding replacement land located within two or more provinces

Article 50 paragraph (1) of Law Number 41 Year 2009 provides that; "All forms of permits that result in the conversion of the function of Sustainable Food Agricultural Land are null and void, except for public interests."



Article 50 paragraph (2) of Law Number 41 Year 2009 provides that; "Every person who changes the function of land for Sustainable Food Agricultural Land outside the provisions is obliged to return the condition of the land to Sustainable Food Agricultural Land."

Article 50 paragraph (3) of Law Number 41 Year 2009 provides that; "Everyone who owns Sustainable Food Agricultural Land can transfer ownership of the land to other parties without changing the function of the land as Sustainable Food Agricultural Land."

Article 51 paragraph (2) of Law Number 41 Year 2009 provides that; "Everyone who carries out activities that cause damage is obliged to carry out rehabilitation."

As explained above in accordance with the points in Law Number 41 of 2009 it is explicitly stated that in Article 50 paragraph (2) it is obligatory to restore the function of agricultural land if anyone who changes the function of agricultural land is outside the provisions because basically The function of the protection of Sustainable Food Agricultural Land is to meet the needs of the people, in accordance with Article 33 paragraph (3) of the 1945 Constitution, which reads: "Earth, water, and natural resources contained therein are controlled by the State and are used maximally for prosperity . people".

Apart from the factors that encourage the conversion of land functions, most of them have legal consequences from the conversion of land functions, especially on sustainable food agriculture.

Legal Consequences of Transfer of Agricultural Land to Non-Agricultural Lands Which Are Not In Accordance with Legislation

The transfer of function of agricultural land to non-agricultural land is closely related to the Regional Regulation of the City of Tasikmalaya Number 10 of 2016 concerning Detailed Spatial Plans and Zoning Regulations for the City of Tasikmalaya for 2016-2036. Article 1 paragraph (48) states that: "Space Utilization Permit is a required permit in spatial utilization activities in accordance with the provisions of laws and regulations". Article 44 paragraph (1) states that: "Land that has been designated as Sustainable Food Agriculture land is protected and prohibited from being converted".

Unless there is a Change in the Regional Spatial Plan or a natural disaster that results in the loss of land function and irrigation networks in accordance with Article 83 of Government Regulation Number 20 of 2006 concerning Irrigation

Based on the provisions governing the conversion of agricultural land use into non-agricultural land cannot be carried out properly, many of the communities and project managers still ignore the regulations stipulated in applicable procedures, facts in the community that sometimes still underestimate because according to him it is owned land. personal so what to be convoluted in using the land.



Some of the causes of the non-validity of what is meant in Article 44 paragraph (1) of Law Number 41 of 2009 concerning the Protection of Sustainable Agricultural Land are caused by:

- a. People who do not know the actual process of the conversion of agricultural land use to non-agricultural.
- b. The community is less responsive if given process directions in accordance with the applicable provisions or procedures.
- c. There is a basic general opinion from the community, that everything related to land must be resolved through the local Regency / City Land Office. This includes the conversion of agricultural land to non-agricultural use.

Apart from that there is an inappropriate opinion from the petitioners regarding the actual function of the fatwa on spatial or land use management. The petitioning community considers it sufficient to obtain the fatwa on land use, so that once it is obtained, privately owned agricultural land can be immediately transferred to its use according to the application. And the status of the land is immediately transferred to the person concerned, where in the change of land status the person concerned does not use a permit for changing the status of the land and does not pay attention to technical instructions from the Agriculture Service, Irrigation Service and Institutions related to the action.

Things like that cause the laws and regulations relating to article 44 paragraph (1) of Law Number 41 Year 2009 not valid or cannot be implemented and run properly as it should. As a result, the process of changing the function of the use of function change of agricultural land cannot run or be carried out as intended in the prevailing laws and regulations.

Legal consequences that arise if the change in the function of land use that is included in LP2B (Sustainable Food Agricultural Land) is not in accordance with the requirements and procedures stipulated under Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, namely if there are applicants who do not meet Government requirements and procedures as stipulated in Law Number 41 Year 2009 will be subject to administrative penalties and fines. The sanctions are as follows:

Article 50 of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land:

1. All forms of permits that result in the change of function of Sustainable Food Agricultural Land are null and void, except for public interests.
2. Everyone who changes the function of Sustainable Food Agricultural Land outside the provisions is obliged to return the land condition of Sustainable Food Agricultural Land to its original state.
3. Everyone who owns Sustainable Food Agricultural Land can transfer ownership of the land to other parties without changing the function of the land as Sustainable Food Agricultural Land.



This article confirms that the Sustainable Food Agricultural Land cannot be issued in any form of permit, with the evidence of paragraph 1 that all forms of permits regarding the conversion of Sustainable Food Agricultural Land are null and void by law.

Criminal provisions in Article 72 of Law Number 41 Year 2009 concerning Protection of Sustainable Food Agricultural Land states that:

1. Individuals who change the function of Sustainable Food Agricultural Land shall be punished with imprisonment of 5 (five) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).
2. Individuals who do not carry out the obligation to return the condition of Sustainable Food Agricultural Land to its original state with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 3,000,000,000.00 (three billion rupiah).
3. In the event that the acts as referred to in paragraph (1) and paragraph (2) are committed by a government official, the penalty shall be added by 1/3 (one third) of the punishment imposed.

Paragraph (1) in this article regulates criminal sanctions and fines for every person who changes the function of Sustainable Food Agricultural Land who violates the provisions in article 44 paragraph (1). Paragraph (2) regarding sanctions for each person who does not carry out the obligation to return the Sustainable Food Agricultural Land to its original state, then paragraph (3) regarding additional penalties for government officials who violate the provisions of the regulations in paragraph (1) and paragraph (2).

The problem of changing the function of Sustainable Food Agricultural Land, violators are not only from each land owner, but also violations of land use change are also carried out by government officials so that the violation is regulated in article 73 of Law Number 41 Year 2009 concerning Protection of Sustainable Food Agricultural Land which states that: " Every government official authorized to issue a license to change the function of land for sustainable food agriculture not in accordance with the provisions of the regulations as intended in Article 44 yat (1) shall be sentenced to imprisonment of at least 1 (one) year and a maximum of 5 (five) years and / or a fine of at least Rp. 1,000,000,000.00.- (one billion rupiah). And a maximum fine of Rp. 5,000,000,000.00, - (five billion rupiah). "

In Article 50 it is quite clear that the consequences that arise if the process of changing the function of agricultural land is null and void, and returns the land to its original state, except for public interests. As a result of land conversion will also affect in the future, Indonesia's economy will still depend on the natural resource sector, in a situation of economic crisis and political uncertainty and also because of the many violations that have occurred in the field of natural resources, the environmental quality will rapidly decline (Leni Puji Lestari, 2018). Industrial and residential development certainly requires a very large amount of land, thus increasing the trend of conversion of agricultural land functions (Suriansyah Murhaini, 2018).



Apart from the legal consequences arising from the conversion of agricultural land, government policies in the land sector during the New Order have had an impact on natural resources, especially on the quality of agricultural land which has been converted into luxurious housing areas, industrial estates, and even into commodities for investment and speculation. For the owners of capital and consequently the land becomes neglected for an indefinite period of time. And until now housing development continues, which has the consequence of the conversion of agricultural land or rice fields into residential land.

4. CONCLUSION

Factors that encourage the conversion of agricultural land functions need to review the applicable regulations and legal basis to protect and ensure that the process does not occur arbitrarily. The conversion of land for sustainable food agriculture is basically prohibited from being converted. As regulated in Article 44 of Law Number 41 Year 2009 concerning Protection of Sustainable Food Agricultural Land. Exceptions that may only be for public interest and some of the conditions are in Article 44 paragraph 3, namely: A strategic feasibility study was conducted, A land conversion plan was prepared, Released ownership of rights from the owner; and Provided replacement land for the converted sustainable food agricultural land.

The problem of changing the function of Sustainable Food Agricultural Land offenders not only from every land owner but also violations of land use change are also carried out by government officials so that the violation is regulated in article 73 of Law Number 41 Year 2009 concerning Protection of Sustainable Food Agricultural Land which states that : "Every government official authorized to issue a license to change the function of land for sustainable food agriculture which is not in accordance with the provisions of the rules as referred to in article 44 shall be subject to imprisonment of at least 1 (one) year and a maximum of 5 (five) years and / or a fine. at least Rp. 1,000,000,000.00.- (one billion rupiah). And a maximum fine of Rp. 5,000,000,000.00, - (five billion rupiah). "

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