

A review of the reliability of land bank institution in Indonesia for effective land management of public interest

By Martin Roestamy

A Review of The Reliability of Land Bank Institution In Indonesia For Effective Land Management of Public Interest

Martin Roestamy¹

Abstract

It is not easy to get decent housing in Indonesia, especially for the low-income-people (LIP), because of the limitation sources of funds and land factors. The paradigm of house ownership for Indonesian urban currently is *asecie* vertical principle; it means the housing ownership is built in between building and land. The Consequence is the effect of backlog about 15 million houses in 2014. Providing lands for the low-income housing is not only depending on the market but also relating to the control of housing developers and cartels, who are setting up the lands as a business commodity. This is trespassing the basic principle of the 1945 Constitution of The Republic of Indonesia on the article 34 the verse number 3 that mentioned the principle of land value is for the national welfare. This study aimed to find out land supplies of Land Bank to provide land for affordable housing and to develop community paradigm toward ownership in which separated building from its land. The research was done by mixed methodology; Namely explanatory were the primary legal material as a legal umbrella of housing development get stressing considering legal research conducted with basic juridical normative with attention to primary data such as land tenure, land supply, and the number of backlog of housing that widened, to provide support to research. Quantitative data used as Comparison of weaknesses of substance application and legal structure, so that both legal materials are enriched with quantitative and qualitative data will be able to find solutions and open access for LIPs' Houses.

Keywords: Land supply, Land Bank, affordable housing, *asecie* vertical principle.

A. Background

The land is the origin of man, then after death returns to the ground, and will be raised from the ground anyway. Thus at least Islam believes in the role of the land and its relationship with the humankind in line with its belief that man was created by God from the land and will return to the land and be resurrected from the land. As the verse of Sura Taha Chapter 20 verse 53 & 55

10 ... 53 ... 55
 [It is He] who has made for you the earth as a bed [spread out] and inserted therein for you roadways and sent down from the sky, rain and produced thereby categories of various plants.

10
 مِنْهَا خَلَقْنَاكُمْ وَفِيهَا نُعِيدُكُمْ وَمِنْهَا نُخْرِجُكُمْ تَارَةً أُخْرَى 55
 From the earth We created you, and into it We will return you, and from it We will extract you another time.

Regarding the land, there are more than 20 times mentioned in the holy book of the Qoran. The convincingly and legitimately that the land is the property of God, no man or a state can claim the land as the absolute ruler, neither the owner of the land over the world.

¹ Post-Graduate of Law School, University of Djuanda Bogor

The establishment of a state should basically have the territory under which both the land and the sea are controlled, both of which are also gifts from God.

In the Islamic perspective, the land is created and mandated to humans as a place to build the life and continue the existence of life. From human soil can live because the land holds fortune from the sky and has fortune also, both of which are also from God. ²⁵

The power over the territory is intended to be a state able to use the land for the greatest prosperity of the people, as affirmed in Article 33 paragraph 3 of the 1945 Constitution which mentioned: "The earth, water, and wealth contained therein are controlled by the state and used for prosperity people"

The words "state-controlled" denotes the assertion of the founding father of the monotheistic view of the land, that the state is not the owner of the land as the royal states such as Britain, Malaysia, Saudi Arabia; where the king holds domains over land.

Based on Law No. 5 of 1960 (BAL) article 1 stated that: "the earth, the water, the aerospace, and the natural resources contained therein, are controlled by the state and used for the greatest prosperity of the people." In paragraph 2 it states: only the people of Indonesia have a direct relationship to the land. "This article shows that in the legal system of land in Indonesia the holders of land domains are the people, thus the land is basically for the people.

In the fourth paragraph of the preamble of the 1945 Constitution, one of the establishments of the Republic of Indonesia goals is: "to protect the nation and to spill the blood" and "to promote the common good", two of the four goals of the Republic of Indonesia emphasize the importance of the state to protect the nation and the homeland to do prosperity for every Indonesian people. Consequently, it's clear if taken from the fifth principle of Pancasila, which is social justice for all Indonesian people, then philosophically, juridically, and politically, which the government has the mandate of state executive, to make the land for the prosperity of society.

Some media reported the government officials saying that the government is having difficulty providing land for infrastructure development, including housing infrastructure, in line with Oswar Mungkasa disclosure that it is very difficult to find land for infrastructure, it is almost impossible to build housing in The District of Jakarta.² Given the price of land has become more expensive and will incriminate for Low-Income People (LIP) to buy every unit of the house. In this perspective, Mungkasa sees through the approach of vertical attachment practice principle, where each unit in the flat, which is named as "Rusunami" prepared for the LIP, there is also a value of land in proportional proportion by the practice of purchasing the property of a flat unit which includes part of the common ground in certificate of property right of apartment unit, so every purchase of house unit, must also buy land according to NPP (the component of HRS).

Apparently, Mungkasa as the Deputy Governor Jakarta on Spatial Planning and Environment, recently also in the other occasion by the Minister of Agrarian and spatial and by the President of Indonesia Joko Widodo, where the government experienced difficulties in the vision of land for the interests of infrastructure development. One of the real evidence, the office of National Land Agency of South Jakarta which is authorized agency to regulate the allotment of land, precisely to get the office, must through a narrow alley, which cannot be done for the public service office with the number of guests so much every day, as shown in the figure 1. The above fact is the irony of the land of Indonesia, where government agencies are defeated by the private sector.

⁴
² Oswar Mungkasa, *Penyediaan Tanah Bagi Perumahan LIP melalui Bank Tanah (Land Bank) Berbasis Tata Ruang (Kasus: DKI Jakarta)*, on Focus Group Discussion held by The HUD institute of Indonesia, Grand Zury Hotel Tangerang on 15 Juni 2017

Because part of the land is already controlled by the private sector, the statement seemed contradictory⁷ after it was found out that the President of Republic of Indonesia, which was also followed by the Minister of Agrarian and Spatial Planning has stated that "the government has difficulty in implementing the provision of⁴⁸ and for the public interest". As the holder of the mandate of the management of land, water, and space and the wealth contained therein, it must not happen, because the government has been granted a right called the State Controlling Right, which is responsible for arranging the²⁹ supply, and maintenance of the land. In addition, it is also authoritative to determine the legal relationship between the legal subject and the land, the actions of the legal subject with the land, to apply and apply the legal politics to the land, to supervise the traffic of the land mutation, to decide and to determine who has the right to control the land and how much land master it.

How in the nation with the principle of Pancasila comes out a statement from a president and a minister who controls and has the authority to regulate the land and spatial law, says that⁷ the government has difficulty serving its people in providing land for infrastructure for the public interest. Why is such a weak government with the philosophical, juridical and political support of the prevailing Constitution and legislation?

This situation is inseparable from the consequences of the implementation of government practices in the field of land that deviates from the principles of good governance (good governance). The case of land disputes in the court even to the Supreme Court, and currently according to the Supreme Court source the land dispute case controls most of the approximate 50% of all cases to the Supreme Court. The dispute drains the nation's energy, because it creates economic disparities and jealousy, as published in various mass media such as Potanigrah case, Meruya case, Kedoya case, Tanjung Priok case, Outer Batang case, and so on with total civil court verdict of 7861 decisions in The last 10 years.³

With such a vast land tenure, it is certain that the real estate company that controls the land latifundia, that is, theoretically the land law, the control has violated Article 17 or 7 of BAL on latifundia (find complete) in addition to violating the latifundia ban, practicing absentee practices, i.e. over land control and control of land outside the territory³ of his / her domicile. There are two factors that become the most obstacle of the provision of land for the construction of houses for the people.

As Mungkasa mentions in the preceding paragraph, there are also concerns among businessmen about the attitude of abandoned land as³¹ result of the violation of the principles of latifundia and absentee mentioned above. The question is, how the government as the holder of the right to control the state, take steps to realize the basic obligation to provide land for the construction of houses for⁴⁶ the LIP so that it can be realized the ideals of the constitution that is the land of the prosperity of the people. Second; how is the government's strategic move to facilitate access of land banks to acquire land sources in order to provide land for the construction of houses for LIP?

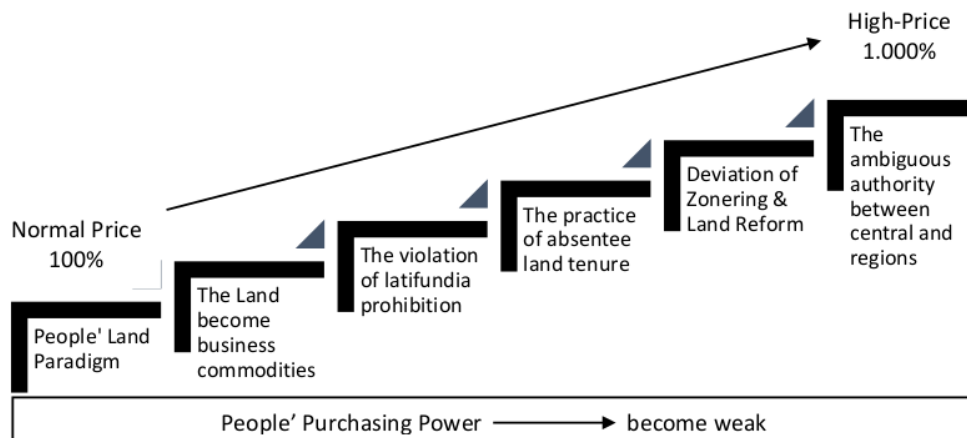
B. Land occupied phenomenon in Indonesia

Land tenure in Indonesia is implemented through the authority of the State Controlling Rights, as regulated in the Law on Article 2 paragraph (1) and paragraph (2), which includes the right to regulate allotment, use, provision and maintenance of land, and the right to

regulate legal relations between legal subjects and land , so that the authority to grant land rights is fully controlled by the government in this case through responsible institutions, including the National Land Agency as a leading²⁷ector in addition to other agencies such as Local Government, central agencies such as the Ministry of Forestry, Ministry of Agriculture, Ministry of Marine Affairs and Fisheries. Seeing the number of agencies involved in land management, it is the ideas of the Constitution, that the land as a gift from God to the state that would have used as much as possible for the welfare of the people will be more easily achieved. On the contrary, for the people, the land becomes increasingly unreachable, the higher it is to the heavens and the price is out of control, which in the end, as many government officials have found it difficult to get land to build infrastructure, including the land provision for affordable housing for the people. Below is a figure that describes some processes that make the affairs of the land increasingly away from the people.

According to the author's finding, the main problems of uncontrolled Land appraising as figured on below:

Figure 2
Fluctuations in Land Appraising



It can be looked at the land appraising connected with the lack of land management, because of the Rights of State (HMN) by the BAL to the government is not functioning properly. These are several problems caused by the fluctuations of land appraisal:

1. The land paradigm in the eyes of Indonesian People, which in the beginning that the land is something sacred, religious, magic, dignity and honour, especially in the rural area, since the land is owned by clan and relatives. But instead, in the urban community, the land is assumed as a social status e.g. successfulness, wealth, and prosperity.
2. The land enhances business and investment commodities;
3. Excessive tenure practices, violating the *latifundia* prohibition principle, where the control of land in the Republic of Indonesia is dominated by only a handful of people or large corporations;
4. The practice of *absentee* land tenure, resulting in abandoned amount of land, especially in the areas surrounding the big cities;
5. Deviations from land-use-planning, especially in agricultural areas, thus ignoring the principle of land-reform;
6. The Weakness of land management, conflicts of interest and the problem of land tenure,
7. Professionalism of the government officials with the ambiguous authority between the central government and the regions;

It is very well-known in Indonesia that there are oligopoly groups consisting of plantation companies and large real estate companies that control the land in Indonesia, they **9** Indonesian citizens with no more than 3% of whole population, according to Tempo.co.id based on the results of research of the Institute for Transformation for Justice Program which released the research result titled "Taipan Control over Group of Palm Oil Companies in

Indonesia" there were 25 groups dominating 5.1 million hectares of 10 million hectares plantation in total, which equivalent to nearly half the island of Java or the extent of 128.297 KM² and part of those amount consists of 2 million hectares has not been planted, and part of those are becoming neglected land.

Figure 3
Private Palm Oil Plantations



Source: tempo.co.id

Table 1

14 Giant Landlords list in Indonesia

1.	PT Agung Podomoro Group Tbk
2.	PT Agung Sedayu Group
3.	PT Alam Sutera Realty Tbk
4.	Ciputra Group
5.	PT Intiland Development Tbk
6.	PT Lippo Karawaci Tbk
7.	PT Pakuwon Jati Tbk
8.	PT Paramount Serpong
9.	PT Summarecon Agung Tbk
10.	Sinarmas Land Group

Source: detik.com

In the real estate field, the top 10 landlords in Indonesia as released by national and international media⁴, among others are the real estate lords of Indonesia; they have hundreds of large-scale property projects throughout Indonesia, either by themselves, or through subsidiaries. If viewed the latest case, that is coastal reclamation of bay of Jakarta, then the

above companies as known through print and electronic media, from island A to island Q as shown in the figure 3 can be said owned by among taipan above.

Figure 4
The Development of Jakarta Bay Reclamation



Source: www.idealista.com



Source: www.idealista.com

The program of reclamation, as mentioned by idealista.com encompass 17 artificial islands that composed the new western district of Jakarta. The best solution that has found the Indonesian government, which will have an airport and an expansion of the commercial port of the city. But again, there is no program affordable housing for low income people at all, until now the project still in deep discussion among housing stake-holders.⁵ Even the first campaign, the aim of the project to solve the problem of water quality in the city, the project instead, results directly to the environmental impact of the wall, even though destroying much of the area's corals and forcing artisanal fishermen area. Automatically the project reduces the

⁵ <https://www.idealista.com/news/inmobiliario/internacional/2016/01/11/740538-la-gran-muralla-de-40-km-y-36-000-millones-con-la-que-yakarta-intentara-no> accessed on 11 Mei 2017, time: 17.32

space for the provision of land for affordable housing construction, although initially as if the reclamation effort aims at developing the potential of the land.

C. Land Bank

1. Land Bank in Indonesia

Basically the land bank was not yet born in Indonesia, but the discourse about the land bank grew in the Housing and Settlement Congress II, on 28-29 April 2009 on "Accelerating the Development of Housing and Settlements in Indonesia", where before in pre congress in Batam author opened discourse on Land Bank for the construction of affordable housing for Low-Income People (LIP)⁶, at that time the President Director of PERUMNAS (Ir. Himawan Arief Sugoto) who is currently the Chairman of the Expert Team of The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the Land Bank Division provided support on the discourse of a Land Bank as the facilitator of land provision for the construction of affordable housing.

Land Bank can basically serve as a means of providing land with the support of several sources of funding and LIPeng model (income). With the land bank is expected the problem of land procurement for the public interest, can eliminate speculation activities in the provision of land.

The problem of land acquisition using the Land Bank has been proposed by Supraba Sekarwati Wijayani (2003) in a dissertation³ designing the recommendation of the Land Bank in the framework of the development of sustainable housing that emphasizes the concept of the rule of law as the foundation of the Land Bank building and the development of state control rights under the Development Model industrial areas such as Pulogadung in Jakarta or Rungkut in Surabaya, which can be used as early stage embryos of land supply.⁷

For residential and settlement areas, especially for LIP, according to the author's opinion, the provision of environment ready to build (LISIBA) and Ready area for buildings (KASIBA) by Perum Perumnas in Driyorejo Gresik case can be used as an early model⁸. The project is the result of cooperation between Perum Perumnas with group SOE Karya," that was then under the supervision of the Ministry of Public Works. Then, by the provisions in force at that time, LISIBA and KASIBA programs were implemented under the Development and Marketing Cooperation (KSPP) model, which has been appointed by third parties as the implementor for housing and settlement development, such as Settlements for LIP.

⁵ Martin Roestamy, *Makalah, Pembangunan Perumahan dan Pemukiman Indonesia Masa lalu, Kini dan Ke Depan dalam Perspektif Peraturan Perundang-undangan*, disampaikan pada dialog regional III, di Batam tanggal 3 Maret 2009.

⁷ Supraba Sekarwati, *Gagasan mengenai Pembentukan Bank Tanah (Land Bank) dalam rangka pembangunan perumahan dan pemukiman yang berkelanjutan di Indonesia*, Disertasi UNPAD, 2003, hlm. 131

⁸ Pembangunan rumah oleh PERUMNAS dengan model Driyorejo, Gresik, Jatim pada tahun 2002 dimulai dari lahan seluas 800 hektare awalnya Perumnas hanya bertindak sebagai pembangun rumah, sedangkan infrastrukturnya dibangun oleh pemerintah daerah Gresik, kemudian melalui kerjasama dengan perusahaan BUMN Karya Group membentuk konsorsium untuk mengembangkan lingkungan siap bangun (LISIBA) dan Kapling Siap Bangun (KASIBA) yang melibatkan lebih kurang tanah 2000 hektare. Dengan cara tersebut tugas Perumnas sebagai *urban development* menjadi lebih ringan karena kegiatan pembangunan perumahan bisa terintegrasi dengan program pembangunan infrastruktur yang dilakukan oleh pemerintah. Melalui kedua pola tersebut harga rumah bisa ditekan karena biaya pembangunannya tidak lagi dibebani oleh biaya pengadaan infrastruktur yang mahal, sehingga prinsip penyediaan hunian yang layak dan terjangkau sebagaimana motto Perumnas bisa tercapai. <http://www.suaramerdeka.com/harian/0304/30/eko5.htm> oleh Bambang Tri Subeno-53 diakses pada 5 September 2017, pukul 20.58 WIB.

Later on in another project, Perum Perumnas also cooperated with several developers in housing and settlement development for Cengkareng area, so Cengkareng thus developed as it is today. Cengkareng model by developing LISIBA program through the Lot Land ready (KTM). As a result, the model made by Perumnas either Gresik project or Cengkareng project perhaps considered as a reference for the beginning or embryo of Land Bank establishment.

2. The main tasks and functions of the land bank

Land bank institutions are part of the implementation of state duties and part of the Right to Control the Government, because in the framework of its activities have the main tasks include planning, implementation, control of every stake-holder land. These activities include activities for designation, use, and provision of land for public purposes, as for the interest of housing is specifically. At least the scope of the task is an elaboration of the 14th UUPA stating that the government is obliged to make plans, inventory, designation, and use of land to realize the welfare of the body and soul in a fair and equitable for all Indonesian people of all time. The article is an embodiment of the spirit contained in the section 33 verse 3 of the Constitution of 1945.

The land bank can accommodate all the needs related to land, for all development activities including infrastructure and highways, public support, i.e., markets, hospitals, schools, offices, sports facilities, reservoirs and means of transportation. And in this paper, the authors want to add for large investment estates especially Foreign Investment (PMA), including those for the housing interest of LIP.

In carrying out its duties, the land bank has to consider some issues by which sensitive and prone to conflict, which can be formulated in several main ideas as follows:

- a. Procurement of land for public interest has a clear rule or legal umbrella but in the process land acquisition problems issues Sociological Law, Legal Culture. And the implementation of Good Governance by responsible officers still need improvement because there are still many disputes and delay in the land acquisition process for the public interest, especially necessary infrastructure, housing development and settlement area.
- b. Given the paradigm of land in the eye of some Indonesian people who still regard the land as something sacred, sensitive, magical religion. On the other hand, there are individuals who have changed the paradigm that makes the land as an object of investment and even speculation. It is not surprising that the procurement of land with any purpose can not be separated from the conflict, let alone the implementation is not done by the competent either in science and authority.
- c. The idea of the necessity of certain institutions, such as Land Bank, as an alternative to land acquisition, or other institutions by developing the existing institutional authority, such as Perum Perumnas, Industrial Estate Management, is an alternative that can be developed as a means of land procurement to achieve legal certainty.

One member of the Presidential Advisory Board (Wantimpres) Suharso Monoarfa⁹ confirmed the provision of housing for low-income communities (LIP) is difficult to do without the availability of land banks. However, the local government must make a provision of land. This opinion can be justified because the primary task of the land bank is to use the land for the greatest prosperity of the people should be avoided private involvement. Because it is feared the provision of territory by LIP housing becomes a place of speculation, because it can not be denied that the issue of public housing is a matter of land procurement.

⁹ <https://forum.rumah123.com/article-3237-anggota-wantimpres-minta-daerah-siapkan-bank-tanah-perumahan#jbc1eLWyITZuk3gR.99>

The process of establishing a land bank can at least meet the minimum standards of the function of the land bank covering:

- a. Land keeper, by collecting complete land data such as land tenure, ownership, land use planning including abandoned soil deposited in the land data bank. The data must be accurate, factual, and complete.
- b. Land warranty, in this case, the land bank should pay attention to the spatial plan, including green open spaces, since the land bank prepares the land procurement process through trading, exchange, or the disposal of rights as usual. However, it can also be done with model development as will be explained below. In this case, the land bank should pay attention to the interests of local government, including the spatial plan of the region.
- c. Land bank as control of land tenure, concerning the planning and land use activities in point (a.) Above, it can control the price of land, so market penetration can be done to prevent the control of land for particular groups.
- d. Land bank as the property valuer. One of the primary objectives of the establishment of a land bank is to overcome the limited availability of land for the public interest. One of the factors of the scarcity of land is the activity of speculators, who save the land to rule the price of land then so that the price is tough to be controlled. If it only refers to the value of taxable objects (NJOP), it's hard to find an agreement because the speculators use market prices reaching two up to three times the fair price. So in this task, the establishment of a land bank requires a strong commitment from the government because one of the objectives of establishing a land bank is to compensate for speculators who are large corporations as mentioned in the preceding introduction, which rules the land price. Recently, the oligopoly group has been docked to the government, especially in DKI Jakarta, which has contributed to the increase of property price (NJOP) up to 200%.¹⁰ It is very dangerous for the community and the government, for the people increasingly keep the land price away.
- e. Land bank as a distributor, in this sequence land bank, can help the government do the distribution of land especially for development related to people's welfare, among others the provision of land for the construction of affordable homes. The sources of land acquisition for the land distribution activities will be described in the next chapter. In this sequence, the land bank can also act as an extension of the government's hand to acquire land, in an easier and cheaper way so that the development for the public interest is not hampered, due to the availability of land as conveyed by the President and the Minister of Agrarian and Spatial Planning. In this case required the readiness of capital and carefulness of land experts as experts to conduct studies and research on soil sources, can not be denied in the activity of collection and distribution of land often occur internal conflict of interests. Therefore, the party appointed as the land bank authorizer must have integrity, capability, and spirited devotion regardless of business-oriented. A comprehensive selection is needed to get the experts involved in the activities of the land bank.
- f. Land bank as land management, as an official institution that directly manages the storage, determination, planning, use, and supply of land, the element of oversight is also the most important part to organize the clutter of the provision of land, how the role of Mastering State can be spelled out by the bank land, and if necessary will take some of the role of BPN in land matters, since land issues can not be separated from un-manageable BPN employees, so planning and land use can be used as a reference of land management development by land bank as an alternative and confidential to avoid speculation.

¹⁰ Research Report of Center of Land & Property Law Study of Djuanda University, September 2010

With the main tasks and functions as mentioned above, the institutional development of land banks is not only focused on the provision of land for infrastructure and public utilities but should also be directed to the provision of land for public purposes where housing development for the poor and low income (LIP). According to Supraba Sekarwati, in general, the activities of land banks have three phases, namely: (1) preparation stage; (2) implementation phase; (3) control stage. She wants the establishment of a single governing body or executing agency that carries out the activities of the land bank.¹¹ Then the governing body is licensed to acquire property with a detailed spatial plan, the extent of the land occupied plan, and the infrastructure development plan. Then hold the control includes three main activities, namely; the provision of land, the maturation of the area, and the distribution of land.¹² And there are four ways to acquire land sources: land consolidation, buying and selling, exchange, and disposal of property rights. In the opinion of the authors, for the provision of land for affordable housing, a land supply model which is legally justified by looking deeper, among others: land abandoned by the practice of latifundia and absentee for example, or the utilization of regional assets, and development is at the center established Public Service Agency (BLU) as the embodiment of a land bank institution, then in the region must be followed by the development of the Regional Public Service Agency (BLUD) and can also use APBD funds. Likewise, the central government can use the state budget as a source of land acquisition for institutional development of land banks. It should be remembered, with the towering property price without capital and a strong desire from the government could be the institution of the land bank seems toothless tiger alike. Here a strong legal umbrella is required of the establishment of the land bank as will be described in the next part.

3. Juridical Foundation of Establishment of Land Bank as a Legal Entity

a. Figure tentang alternatif entity

In some meetings held by the ministries or social institutions such as NGOs, some of the important notions include the form of land bank entities in the form of government agencies under the Ministry of Agrarian Affairs and the National Land Administration or under the Ministry of Housing Affairs. There is also an idea to create a state-owned enterprise that manages the land bank, and another idea is in the form of Public Service Bodies (BLU) with two forms; both are central Body domiciled in the capital city and Regional Body domiciled in the provincial and district capitals. So it can be concluded several alternatives as can be detailed in the following table;

Tabel. 2
Alternatif Land Bank Entity

	Government Agency	State-Owned Enterprises	Public Service Agency
Legal Basis	Presidential Regulation or Presidential Decree	The Law Number 40 Year 2007 on Limited Company and The Law Number 19 Year 2003 concerning State-Owned Enterprises juncto Government Regulation	Government Regulation No. 23/2005 juncto 74/2012 on Management Finance Public Service Agency

¹¹ Supraba Sekarwati, *Op.cit.*, pg. 229

¹² Supraba Sekarwati, *Ibid*, pg. 230

	7	No. 45/2005.	
Legal Body	The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency	The Central Land Bank (Government Enterprise, Legal Body)	Land Public Service Agencies (not Legal Body)
Scope	Arranging the planning, designation, use, acquisition, and consolidation of land to sell land encountered barriers regarding provisions on state assets (Government Regulation Number 27 of 2014, Management of State / Regional Property), Right to Use and Right to use of government agencies, can also be borrowed-use.	Arranging the planning, designation, use, acquisition of land, consolidating the land, removing and transferring the land, and placing the property in the form of income into the Company (inbreg), can also enter into a profit-driven rights management and profitability concession contract such as Cultivation Right (HGU).	Arranging planning, designation, use, acquisition of land, consolidating land, removing and transferring land, and placing land, making land use concessions, non-profit use agreements.

As a business entity engaged in land acquisition, a land bank is undoubtedly equipped with high capital, as a business entity in general, the small size of the firm depends on the authorized capital, issued capital, or finance set aside. In various focus group discussions held by both government and NGOs, including those conducted by The HUD Institute, have been discouraged ground capital of Rp 3 trillion sourced from APBN. According to the writer's opinion, such capital placement should consider the factors of fluctuations in land prices and the speed and accuracy in acquiring land and the funds needed to build the area infrastructure, from any source land bank acquired land. So that the placement of capital of that very little, so the space motion of the land bank is not flexible and limited, should the authorized capital placed by the government at least is Rp. 10 trillion, because the price of land is quite volatile, especially in Jakarta and surrounding areas. To get the land price, Rp 5 million per meter is almost said to be impossible, in the business area the price of land is around Rp 50 million to Rp 150 million per meter. While the price of land in the area of Bogor, Tangerang, Bekasi, and surrounding areas ranged around Rp 2 million per meter.

As a business entity engaged in land acquisition, a land bank is undoubtedly equipped with strong capital, as a business entity in general, even the small size of the business depends on the authorized capital, issued capital, or finance set aside. In various focus group discussions held by both government and NGOs, including those conducted by The HUD Institute, have been discouraged basic capital capital of Rp 3 trillion (equal to USD 222 millions) sourced from The Budget and National Revenues (APBN). According to the writer's opinion, such capital placement should consider the factors of fluctuations in land prices and the speed and accuracy in acquiring land and the funds needed to build the land infrastructure, from any source land bank acquired land. So that the placement of capital of that very little, so the space motion of the land bank is not flexible and limited, should the authorized capital placed by the government at least is Rp. 10 trillion, because the price of land is quite volatile, especially in Jakarta and surrounding areas. To get the land price, Rp 5 million per meter is almost said to be impossible, in the business area the price of land is around Rp 50 million to

Rp 150 million per meter. While the price of land in the area of Bogor, Tangerang, Bekasi, and surrounding areas ranged around Rp 2 million to Rp 5 million per meter.¹³

In the United States, Land Bank arrangements as a means of land management can be regulated by State Act., So it is possible for the City, Village or Town government to form Land Banking.¹⁴ In Indonesia there is a discourse forming Land Bank through the Government Regulation and some are proposing as a Legal Entity should be formed through the mechanism of the Act, but according to the author's opinion, it is not good and should be avoided formation based on Presidential Regulation, because the entity of the Land Bank will master the substantial national land discourse, the discourse of the land bank in the form of Public Service Agency (BLU) then in the region can be in the form of Regional Public Service Agency (BLUD), is as something that is very possible. Noteworthy is the status of legal entities as persons with rights and obligations must be clear, therefore, the Land Bank must be separate from one government agency, from political interests, and business interests. This is a very crucial situation from the beginning and must be considered. And in its initial discussion, the entity status of the land bank became an interesting one.

D. Land Supply Model for Affordable Housing

1. Land Acquisition Method

The first step of the land bank is to plan, use, designate and provide land for each area in accordance with the spatial plan and the regional spatial plan. In the initial planning, of course, cannot be released land use planning for other public interest, not solely for the sake of housing. Such general interest, as determined by the Law on the Provision of land, includes, some of them, The Laws of the Republic of Indonesia Number 2 Year 2012 concerning Land Procurement for General Welfares, which regulates 18 types of public welfare, whereas concerning the provision of land for the benefit of housing for low-income people is set in the article number 10, point (o) mentions that the arrangement of urban area and/or land consolidation, and housing for low-income people with the status of rental.

After preparing and determining the Local Tax Object Sales Value (NJOP) guides the base price then carried out socialization to the community whose land will be acquired and then to be processed by the transaction model, such as sale and purchase or exemption of property rights. So far, the provision of land for public interest has not been done by the land bank, because the land bank itself is still in the process of establishment, the body or entity is also still in debate, it is only expected to pay attention to some of the indicators described in table 2 above. In general, land acquisition activities are undertaken by land-use initiatives, or land users, such as: government agencies, state-owned enterprises, or national companies for housing, infrastructure, and other infrastructure.

To this extent, the acquisition of land for the provision of land is completed with the condition of the Land Law regulation. The land bank if undertaking activities within the limits of the acquisition as intended, by land consolidation approach, has also been completed, nothing new except for the execution of land acquisition carried out by the land bank, to avoid speculation as described earlier, it is necessary for careful selection of decision makers and management of the land bank. Given the complexity of land affairs in Indonesia, the safest model according to the author's opinion is the model of the Public Service Agency (Central BLU) domiciled in the Capital City and may open the Regional Public Service Board (Regional BLU), provided that its formation must be based on the Law, thus having a stronger position and scope of work can be detailed and have legal-bindings

¹³ Search Report of Center of Land & Property Law Study of Djuanda University, September 2010

¹⁴ Sungkana, SH, LLM, *Konsep Dasar Land Banking/Bank Tanah*; Artikel pada DJKN, 2015

2. Land Supply for Land Bank

The next question is the outside land acquisition undertaken as discussed in the previous chapter, how to develop land supply for land banks especially for the provision of land for affordable housing construction, as will be described below.

Some thoughts on the results of research that the authors do, the prospect of developing a model of land supply for home construction, can optimize, among others:

a. Utilization of abandoned land

If you look at the data in the previous discussion, there are 5.1 million hectares owned by taipans in Indonesia, from the taipan of plantation owners, there are still 2.20 million hectares that have not been exploited, of course, among others become neglected. According to the provisions of Government Regulation Number 36 of 1998 on the Control and Utilization of Abandoned Land, which regulates the criteria of neglected land; first, land that is not utilized and / or maintained properly; secondly, land which is not used in accordance with the circumstances, nature or purpose of the granting of such rights.

Land abandoned not only from plantation land but many also in the area around the city, among others around JABODETABEK area, namely Jakarta, Bogor, Depok, Tangerang, and Bekasi. Around the area GERBANG KERTOSUSILO namely, Gresik, Bangkalan, Mojokerto, Surabaya, Sidoarjo, and Lamongan. Or the area MABIDE, namely Medan, Tanjung Morawa, Binjai, and Deli Serdang. From the results of research conducted by the Center for Study and Property Law, every empty land that is not worked on, almost can be said the Taipans own everything, i.e., in Jakarta, Surabaya, or Medan. This is the so-called excessive effect of land tenure by violating the prohibition of latifundia, as provided in the UUPA section 7 which states that: "In order not to harm the public interest, the possession and control of the overgrown land is not permitted." also with ceiling is regulated in the Regulation of the Minister of Agrarian and Spatial Planning (ATR) / Head of National Land Agency (BPN) No. 18/2016 on Agricultural Land Control. Based on population density with limitation for the maximum individual as follows:

- 1). 20 ha (acre) for non-solid areas,
- 2). 12 ha in less dense areas,
- 3). 9 ha in densely populated areas, as well as
- 4). 6 ha in densely populated areas.

Limitation of this area is almost the same as the previous rule, namely Government Regulation in Lieu of Law (PERPU) No. 56/1960 on Stipulation of Land Area of Agriculture.

There is basic regulation of the ban on latifundia regulated by the BAL, but if it sees the facts in the discussion of land acquisition, the situation becomes irony, let alone associated with land tenure by a small group of taipans by violating the principle of land ownership limits set forth in the principle of latifundia and more ironically the ownership of the land has largely violated the prohibition of absentee as provided for in Article 10 paragraph (1) of Law No. 10 of the Republic of Indonesia, which states: "*Every person and legal entity having a right to agricultural land is obliged to actively work on it preventing extortion measures.*" The two violations of land ownership by latifundia and absentee are the origins of abandoned land and fluctuations in land prices and increasingly uncontrollable increases. As a result, there is a scarcity of land for development for the public interest as complained by the high government officials, including the benefits of providing land for affordable housing for low-income communities. Because of this, it is caused by the increasingly high land price,

and the land becomes the business commodity and speculation of the owners of capital so that eventually the land becomes abandoned³¹. In order to avoid injustice and referring to Article 33 paragraph (3) of the 1945 Constitution, the utilization of abandoned land has occurred in the midst of housing stakeholders in each Focus Group Discussion on the provision of houses for the poor and LIP, discourse on the use of abandoned land as⁵² land unused land due to latifundia and absentee practices is a potential source of land acquisition for the public interest, particularly the construction of houses for LIP. According to the author's opinion, in accordance with the principle of justice deemed by the Land Acquisition Law to be associated with the fifth precept of Pancasila⁷ LA, as the source of all legal sources in Indonesia, under the juridical foundation of article 33 paragraph (3) of the Indonesian Constitution, the opinion of land redistribution abandoned lands originating from absentee and latifundian soils are a priority source of land provision and the main task of the land bank that will soon be established. With the BLU model, the transfer of soil functions to the voluntary land-granting model of the taipans of land rulers in the Republic of Indonesia is an act of honor and patriotic Pancasila. If they do not want voluntary submission as intended, then the government should issue a decree on the suspension of the control over land rights in the interests of the people, in accordance with the applicable provisions. This is called the theme "Ready to Share Land with the People"¹⁵

b. Corporate Social Responsibility (CSR)

For industrial areas, state-owned companies, or multinational corporations, which have substantial land around their factories, the idea of allowance for profit-sharing with CSR systems can be done by setting aside some industrial land or plantations to be granted to the land bank, in order to be utilized as a source of provision of land for workers of each company and can be built housing workers around the business location. This step should be made in the form of a Government Regulation on the obligation to provide land for factory workers which can be converted to CSR costs or can also be tax-deductable.

During this time, large corporations build dormitories for workers and employees with provisions, after retirement or stop working, workers have to vacate the house, and many incidents, occupants must be forcibly removed or with bailiffs. This way is inhumane, considering that during¹³ work, workers have contributed positively to the company, then it is time to think with the establishment of a land bank, the land office in every plantation land, industrial estate or big companies, both multinational and national companies, there is an obligation to set aside at least 5% of the land for the benefit of workers, with the provision of land grants or borrow use, it is only necessary to consider the concept of separate ownership of buildings and land as will be described in the next description

c. Regional Assets

Regional assets are owned by the City / Regency or Province which consists of moving assets and not moving. fixed assets, including land, buildings and other pre-

¹⁵ Martin Roestamy, *HUD Magazine*, first edition, Jakarta: 2011, visit <http://hudindonesia.org/index.php/hudmagz>

existing facilities. The regional asset is managed by the Regional Asset Management Board with the aim that local assets can benefit, especially for regional income.

Among the land asset areas, there are neglected and neglected, this is because the local government is less serious to take care of it, such as the legal documents are not clear, pemekaran and regional development, so relatively weak security. As a result, a lot of land is not utilized or worked on by third parties.

The land utilized by the local government concerned can be the initial capital of ³ the establishment of a land bank in the region, whether named Regional Bank of Land Bank or Regional Public Service Agency, depending on the formation of the central government. For areas in Java Island that have village cash lands, such as crooked soil, kitsitir, gogolan land, for example areas that have changed from village to city, of course the village cash is not used by the former village head or his family, but must be submitted to the region for asset area. The densely populated areas in West Java, East Java, Central Java, and Banten can utilize village ex-kas land as a source of land provision for the land bank. Especially for areas that have *ex-swapraja* land (ex-kingdom lot) i.e. *Sultan Grand*, such as in Special Region of Jogjakarta, Surakarta, Cirebon, Medan, and other areas, each can utilize untapped land to be handed over to the land bank for the provision of land for affordable housing development. Here it takes the greatness of the soul and patriotism of the ex-sultanate of land especially for the descendants of ex-kingdom who hold the role of government in the region. For example, Paku Alam or Sultan Hamengkubuwono.

d. APBD and APBN

Local governments should be encouraged to start buying land for people's houses, one of the ways applied to encourage the area to purchase housing land is by channeling the Special Allocation Fund (DAK) to the district / city and provincial governments in the form of money as long as the land is bought to build home of LIP.¹⁶

The United States government allocates much of the state budget to land banks that are submitted to every state. The state-controlled lands are mostly used for the construction of people's homes. In Singapore, Housing Development Board (HDB) has been tasked with providing housing for the island community.

For example in the RPJMD, land politics can be formulated for the welfare of the people by setting aside 5% (five percent) of APBDs of cities / districts or provinces specifically for the utilization of land acquisitions into regional assets for the benefit of land banks for affordable housing construction for the people.

e. ²Enclaving Model and Redistribution ex-Cultivation Rights

An enclave is a territory, or a part of a territory, that is entirely surrounded by the territory of one other state. Territorial waters have the same sovereign attributes as land, and enclaves may therefore exist within territorial waters. An exclave is a portion of a state or territory geographically separated from the main part by surrounding alien territory (of one or more states). Many exclaves are also enclaves. *Enclave* is sometimes used improperly to denote a territory that is only partly surrounded by another state. Vatican City and San Marino, enclaved by Italy, and Lesotho, enclaved by South Africa, are the only completely enclaved states. Unlike an enclave, an

2
exclave can be surrounded by several states. The Azeri exclave of Nakhchivan is an example of an exclave.

The definition of enclave in this paper is prioritized for HGU lands, especially the plantation lands around the city, such as in Sumatera Utara which has a lot of large plantation land, namely Deli Serdang, Serdang Bedagai, Simalungun, and Medan City . Or around the Jabodetabek area which is surrounded by ex-tea plantations of PTPN or private-owned ex-Dutch whose land is large enough if they want to be used as a source of land for land banks. According to the author, the government is only enough to stop the HGU validity, so there is no need for turmoil from within the company or from the surrounding community. This enclave area is basically, some already around the settlement, such as in Cisarua Bogor, Subang, Sukabumi, West Java or Helvetia Deli Serdang North Sumatra, Medan and surrounding areas. The much better is enclaved because housing projects are initiated by the region, rather than the *ruislag* done by large private companies, whether it is for the industrial area or for manufacturing industry at home and abroad multinational companies.

What has been happening is that besides the *ruislag* there is also a wild cultivation by the surrounding community by building illegal buildings, whether it is a hotel, villa, or educational center, which has no benefit to the surrounding community, especially the poor. This is what authors of land redistribution mean after the end of the HGU period is not extended by the government. This is where the government performs the function of HMN, restore the function of land for the greatest benefit of the people's prosperity. The project of land redistribution, can be done with the initiation of each city / regency or provincial government. With a land redistribution project, it should not be left to the individual people, but the land is left to the land bank, with mechanisms such as the following figures:

Figure 5
Enclaving Model and Redistribution ex-Cultivation Rights



f. 8 Ulayat (Land Used Cash Village)

Ulayat land is a plot of land on which there is a 8 ulayat right of a particular customary law community. Ulayat right is an authority, which, according to customary law, is owned by the customary law community over a certain area which is the environment of its citizens, where this authority allows the community to benefit from natural resources, including land, in the area for its survival. The community 8 and the resources in question have an inward and inherited inner and outward relationship between the customary law community 43 and the territory concerned.¹⁷

Ulayat land is the land with the customary law community members concerned. The land rights of customary law community are known as Ulayat Rights. Hak ulayat is a

¹⁷ https://id.wikipedia.org/wiki/Tanah_ulyat accessed on 08 September 2017

set of authorities and obligations of an adat law community, which relates to the land situation within its territory.¹⁸

The Principle of Recognition of Indigenous Peoples' Customary Rights stems from the statement that the agrarian law applicable to the earth, water and space customary law (Article 5 BAL). In addition the regulation also recognizes the existence of customary rights or similar rights of indigenous and tribal peoples to the conditions as long as they are in fact still exist, must be such that in accordance with the national goals.

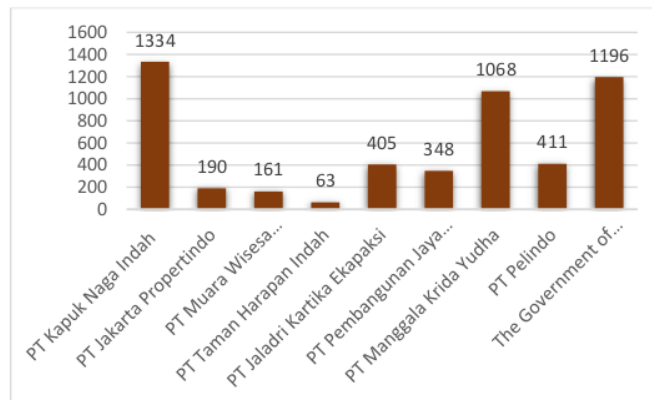
This means that ulayat land is owned by communal, not owned by individuals. The recognized and authorized adat community lawyers may cooperate with the land bank, by performing the removal of adat land to be developed and equipped with infrastructure facilities, which then on the land can be built housing for members of the alliance or clan.

In western Sumatra, the initiation of building a house on ulayat land already existed before the independence era, therefore the people of West Sumatra already know the ownership of each family's house on land owned by customary law communion or ulayat. Thus, in the case of the use of ulayat land, it could be the land procurement initiative carried out by customary law associations, in this case the transfer of rights to land banks, not transactions of rights. The ground care model can be used as the most feasible alternative.

g. Ex-planation of Jakarta Bay

The reclamation of the bay coast of Jakarta is a phenomenon in 2016 to the present day, all national print media make a report about this reclamation, especially the social media whose news breaks through the boundaries of the world, defeats the mainstream media. The ads on the city's reclamation plan of Jakarta bay are spread to China, Singapore, Malaysia, Japan, Hong Kong, Europe and USA. Question by the people is: how the ads are spread to abroad? Would not that be built is a housing on the land rights of the management of each developer? Is not the granting of rights under the principle of the State Owned Rights carried out by the National Land Agency of the Government of the Republic of Indonesia? These questions are increasingly belonging to the public which ultimately gives the impression and conclusion that the reclamation of the bay beach of Jakarta which closes the opportunity for fishermen to go to sea and close the people's access to the sea is not for the welfare of the Indonesian people, on the contrary, for the benefit of foreign parties, investment and business interests of tycoons. There are 17 islands that will be built by the majority of Indonesia's giant property groups as described in the following table:

Table 8
Land Tenur Graphic of Jakarta's Reclamation



19

In accordance with Regional Regulation No.1 Year 2012 on Spatial Planning of DKI Jakarta 2030, the planned reclamation area covers 17 islands with an area of approximately 5,100 ha. The scope covers the area spread over four (4) districts.¹⁹

Figure 7
Distribution of Jakarta Bay Beach Reclamation Area



Sumber: CNN Indonesia

From the reclamation usage planning, the reclamation city development advertisement as illustrated in the media has reached foreign countries (the advertisement is not the focus of this discussion, including the scope of its marketing), but it should be noted that the reclamation use plan looks more dominant business interests investors and direction to foreigners, not even a single word that provides a record and should be suspected the interests of low income people or the poor. What is the fate of the inhabitants? From advertising and from planning and designation has not been seen clearly.

If it refers to Article 33 Paragraph (3) of the 1945 Constitution, which reads: "The earth, water, and natural resources contained therein shall be used for the welfare of the people", in accordance with article 28H. which regulates the basic right of the people to own houses and shelter is the obligation of the government at least more than 50% of the number of houses to

¹⁹ (Kementerian Koordinator Bidang Perekonomian, 2014)

be built, is for the benefit of the people, especially the urban poor and low-income people. While waiting for the chaos between stake-holders, as well as between investors and government, especially the elected governor of DKI, the most favorable reference in the context of land provision is related to embryo land bank, the thought of handing 50% of reclaimed land to the people's interest to land bank is a middle ground, with the stipulation that more than 50% of planned housing developments are housing for the people, especially low-income people. This idea is more Pancasila than advocating the reclamation for foreign interests to spread abroad. So the land returns its function in accordance with the mandate of the founders of the state, as mentioned in the constitution above. On the contrary, if the idea of returning land to the people, especially reclaimed land where the people do not have the opportunity or access to a proper place of residence as the 1945 constitution mentions, the Gulf coast reclamation project in Jakarta can be said to be contrary to the principle of justice and certainly against the 1945 Constitution and Pancasila.

The President of the Republic of Indonesia, in the context of upholding Pancasila and the 1945 Constitution, is deemed necessary to take a firm and pro-people stance, with the risk of the government prepared to compensate for the investment of invested by investors as long as the investor complies with applicable laws and regulations. To investors who deliberately violate the provisions, if necessary the president can issue a decree mandate the suffering of the people, in accordance with his promises during the campaign in the past.

3. Affordable Housing

2 Government pricing and Simulations

Affordable housing is housing which is deemed affordable to those with a median household income^[1] as rated by the national government or a local government by a recognized housing affordability index. Most of the literature on affordable housing refers to mortgages and number of forms that exist along a continuum – from emergency shelters, to transitional housing, to non-market rental (also known as social or subsidized housing), to formal and informal rental, indigenous housing, and ending with affordable home ownership. In Indonesia, which includes affordable housing is a subsidized home, for example a prosperous tread house and a well-built welfare house with a minimum area of 21 square meters and a maximum of 36 square meters²⁰, the price is set by the government. Prosperous house tread is a house built on the land tread (landed house), while the prosperous house is a house of stacked building buildings built in the form of flats.

In this paper between affordable homes is also called a home for low income people (LIP), the sense of both is the same. The government has determined affordable homes based on two approaches, namely home treads and flats, for home treads set by each region as in table 3, while for flats in table 4 is not specified the price, only the price per square meter depends on the extent, whether 21 square meters or 36 square meters as determined, both the flat and the home footprint price is different in each region, the higher the price of home production the higher the selling price of the house. Especially for JABODETABEK area price per meter of multi-storey house is different or more expensive, this considering the price of land in the area is getting more expensive since 2014 when the governor of DKI held by Joko Widodo land prices in Jakarta and surrounding areas experienced a significant surge. In some areas of Jakarta's golden triangle, the surge is doubled or 200% increase from the original price. This also affected the BODETABEK (Bogor Depok Tangerang and Bekasi) areas almost in the

²⁰ Keputusan Menteri PUPR No. 552/KPTS/M/2016

average of housing complexes (real estate) prices also rose as a result of the increase from Jakarta.

The price set by this government is the price of houses and land, because the principle of government, especially the urban community, still adheres to the urban principle, where the ownership of houses and land are still united. For flats, each unit will earn a proportion of the land in proportion to the Proportional Comparative Value (NPP) calculated from the division between: the width of the unit divided by the width of the building multiplied by the joint land area. concern over the application of the vertical attachment principle, is a consideration in this study that has been run for four years, where the application of vertical principles resulted in heavy burden for the people, because they have to pay the price of land plus the risk of buying in the housing environment because they have to bear the cost of investment, done by the residential developer. As a result, the words of affordable homes become more expensive and that also causes the larger housing backlog, the lower purchasing power of the people, as illustrated in the fluctuation of land prices due to some land issues as described in the previous chapter.

Below is made the table of price of the house both the tread and the tower as stipulated in the Regulation of Minister of Public Works and Housing of the Republic of Indonesia Number 21 / PRT / M / 2016 About Ease and / or Help of Acquiring House for Low Income Society as in following table:

Table 3
The Limit Price of the Highest Welfare Landed House (2016-2018)

No.	Territory	2016 (Rp)	2017 (Rp)	2018 (Rp)
1	Jawa (except Jakarta, Bogor, Depok, Tangerang and Bekasi)	116.500.000	123.000.000	130.000.000
2.	Sumatera (except Riau Islands, and Bangka Belitung)	116.500.000	123.000.000	130.000.000
3.	Kalimantan	128.000.000	135.000.000	142.000.000
4.	Sulawesi	122.500.000	129.000.000	136.000.000
5.	Maluku and Northern Maluku	133.500.000	141.000.000	148.500.000
6.	Bali and Nusa Southern East	133.500.000	141.000.000	148.500.000
7.	Papua and West Papua	183.500.000	193.500.000	205.000.000
8.	Riau Islands and Bangka Belitung	122.500.000	129.000.000	136.000.000
9.	Jabodetabek (Jakarta, Bogor, Depok, Tangerang, and Bekasi)	133.500.000	141.000.000	148.500.000

Source: Keputusan Menteri Pekerjaan Umum Dan Perumahan Rakyat Nomor 552/KPTS/M/2016 tanggal 28 Juli 2016

Table 4
Limit Price Selling of the Flat of the highest (2016-2018)

Provinsi

No	Teritory	Selling Price/m ² at most (Rp)	Selling Price/unit at most (Rp)
1	Nangroe Aceh Darussalam	8,500,000	306,000,000
2	Northern Sumatera	7,800,000	280,800,000
3	Western Sumatera	8,800,000	316,800,000
4	Riau	9,500,000	320,000,000
5	Riau Islands	10,000,000	360,000,000
6	Jambi	8,800,000	316,800,000
7	Bengkulu	8,000,000	288,000,000
8	Northern Sumatera	8,700,000	313,200,000
9	Bangka Belitung	8,900,000	320,400,000
10	Lampung	8,000,000	288,000,000
11	Banten (except City/District Tangerang and Southern Tangerang)	7,600,000	273,600,000
12	Western Jawa (except City/District Depok, Bogor, Bekasi)	7,300,000	252,800,000
13	Middle Jawa	7,200,000	259,200,000
14	DIY Yogyakarta	7,300,000	262,800,000
15	Eastern Jawa	7,900,000	284,400,000
16	Bali	8,300,000	298,800,000
17	Nusa Southeast of the west	7,400,000	266,400,000
18	Nusa Southeast East	8,600,000	309,600,000
19	Western Kalimantan	9,700,000	349,200,000
20	Middle Kalimantan	9,400,000	338,400,000
21	Northern Kalimantan	9,800,000	352,800,000
22	Eastern Kalimantan	9,900,000	356,400,000
23	Southern Kalimantan	9,000,000	324,000,000
24	Northern Sulawesi	7,800,000	280,800,000
25	Gorontalo	8,300,000	298,800,000
26	Middle Sulawesi	6,900,000	248,400,000
27	Southeast Sulawesi	8,200,000	295,200,000
28	Western Sulawesi	8,700,000	313,200,000
29	Southern Sulawesi	7,300,000	262,800,000
30	Maluku	7,600,000	273,600,000
31	Northern Maluku	9,600,000	345,600,000
32	Papua	15,700,000	565,200,000
33	Western Papua	10,700,000	385,200,000

City/District

No	Teritory	Selling Price/m ² at most	Selling Price/unit at most
----	----------	---	-------------------------------

		(Rp)	(Rp)
1	Western Jakarta	8,900,000	320,400,000
2	Southern Jakarta	9,200,000	331,200,000
3	Eastern Jakarta	8,800,000	316,800,000
4	Northern Jakarta	9,600,000	345,600,000
5	Center of Jakarta	9,300,000	334,800,000
6	City/District Tangerang dan Southern Tangerang	8,400,000	302,400,000
7	Depok City	8,500,000	306,000,000
8	City/District Bogor	8,600,000	309,600,000
9	City/District Bekasi	8,400,000	302,400,000

Source: Keputusan Menteri Pekerjaan Umum Dan Perumahan Rakyat Nomor 552/KPTS/M/2016 tanggal 28 Juli 2016

Table 5
Limitation of Subsidized KPR Target Income

No.	Limitation of Subsidized KPR Target Income	Maximum monthly earnings
1	KPR Landed house	Rp 4.000.000,-
	KPR Syariah Landed house	
	KPR SSB Landed house	
	KPR SSM Landed house	
2.	KPR High-rise building	54 Rp 7.000.000,-
	KPR Syariah High-rise building	
	KPR SSB High-rise building	
	KPR SSM High-rise building	

Source: Keputusan Menteri Pekerjaan Umum Dan Perumahan Rakyat Nomor 552/KPTS/M/2016 tanggal 28 Juli 2016

The income table is a measure of subsidizing each buyer, a subsidy in the form of a price through an advance and a bank interest if the buyer uses a Banking mortgage.

b. Landless House and Simulation of Research Version

What is meant by a landless house is a house owned by a person who is detached from the land law regime by applying the principle of horizontal separation, then the ownership of the house can be separated or different from the landowner. Research on landless homes has been done by authors over the past decade with the following research sequences:

1. The granting of property rights to the building as the author's idea in the disertation recommends the ownership of a house (property) separate from the ground by applying the principle of horizontal separation²¹,
2. The Concepts of Legal Certainty of Property ownership for Foreigners²²,
3. Housing Legal Development Model for Home Provision for LIP²³,

²¹ Law Certainty on House and Building Ownership by Foreign Investor in Connection with Nationality Principle in Indonesian Land Law System, *Ph.D Dissertation*, Bandung: Padjadjaran University, 2008

²² Martin Roestamy, *Konsep Hukum Kepemilikan Properti bagi Asing*, Bandung: Penerbit Alumni, 2009

4. Providing House for The Low-Income People and continued with the Community Paradigm Development Model for Land-Owned Home Ownership to Accelerate the Provision of Homes for LIP.²⁴
5. New Paradigm of Affordable housing for Low-Income People.²⁵

Research on the granting of rights to buildings in the form of building ownership certification is the initial goal of the author's study, originally aimed at preventing legal smuggling by foreigners by buying land through nominee, dummy, and strawman models, encouraging authors to see ownership alien to the application of the horizontal principle, after the proposition is accepted then the research continued by viewing and encouraging the Change of Law of the Flats from Law No. 16 of 1985 to Law number 20 of 2011, and after conducting discussions in various circles and stakeholders, holder including parliament, this idea has been accepted in the new 47, 48, and 49 new apartment Act, which has opened up opportunities for separate ownership of the house and land. However, in the implementation of the Act, there are still many government agencies that have not understood, given the old paradigm still remain in their minds, where the land is integrated with the land, as adopted by the Dutch in the Civil Code which states about *vertical accasie*.²⁶ As a result of the application of this principle, then all the land controlled by the Netherlands impacted value added with whatever existing and existing owned or cultivated by natives (inlander) at that time. Therefore, for the indigenous, the Dutch apply the principle of Horizontal separation, in particular this principle applies in the countryside and in the field of customary law.²⁷

With the limitations possessed by the government, it is expected that this research will be able to give positive contributions both scientific and practical to be able to provide benefits for the community, especially people who need a house but have limited financial ability to buy a home or to repay credit. If the scheme of facilities provided by the above Ministry is applied in the principle of horizontal separation, then the affordable house as mentioned will be closer and the house price will not be higher, since the land supply scheme is done by the government through the duties and functions of the land bank as described above.

²³ Martin Roestamy dan Rita Rahmawati, *Laporan Penelitian Stranas* dengan topik: Model Pengembangan Sistem Hukum Perumahan bagi LIP yang layak secara Teknis, Ekonomi dan Sosial, UNIDA 2014

²⁴ Martin Roestamy dan Rita Rahmawati, *Laporan Kemajuan: Model Pengembangan Paradigma Masyarakat bagi Kepemilikan Rumah yang Terpisah dari Tanah untuk mempercepat Penyediaan Rumah bagi LIP*, 2015.

²⁵ Martin Roestamy, STRANAS 2016

²⁶ Lihat Pasal 500 KUH-Perdata yang berbunyi: Segala apa yang karena hukum perlekatan termasuk dalam sesuatu kebendaan sepertipun segala hasil dari kebendaan itu, baik hasil karena alam maupun hasil karena pekerjaan orang lain, selama yang akhir-akhir ini melekat pada kebendaan itu laksana dan akar terpaat pada tanahnya, kesemuanya itu adalah bagian dari pada kebendaan tadi.

²⁷ Soepomo, *Sejarah Politik Hukum Adat*, Jakarta, Djambatan, 1964, hlm. 85

The possibility of obtaining a land supply for the land bank to realize the construction of affordable housing for the people, so far difficult to find the formulation if still charged to the public to buy land. Only, this idea is not popular in the eyes of the housing developers. Since most of the developers, including the wealthy and straightforward housing developers referred to, still keep the land as one of the motive profits; instead, it is the developers are taking profits as much as possible from the price of the land. There is a suspicion from the community that this also needs to be proved to be like soaring land prices that the government is overwhelmed to provide land for development for the public good, there is a game or relationship with land tenure by violating the latifundia and absentee principles as mentioned in the previous chapter

The possibility of obtaining land supply for land bank in order to realize the construction of affordable housing for the people, so far difficult to find the formulation if still charged to the public to buy land. Only, this idea is not popular in the eyes of the housing developers. Since most of the developers, including the prosperous and simple home developers referred to keep the land as one of the motive profits, instead it is basically the developers are taking profits as much as possible from the price of the land. There is a suspicion from the community that this also needs to be proved to be like soaring land prices that the government is overwhelmed to provide land for development for the public good, there is a game or relationship with land tenure by violating the latifundia and absentee principles as mentioned in the previous chapter.

Below is presented a simulation of land prices by playing the role of ³ land bank as a provider of land for the construction of affordable housing as described above:

Table 6
Simulation of Landless Housing Prices

Territory	Vertical Accessie Principle		Horizontal Separation Principle		Difference Savings	Percentage
	Price per M ²	Unit price Home	Price per M ²	Unit price House (5 Floors)		
³ City Jakarta Western	8,900,000	320,400,000	4,000,000	144,000,000	176,400,000	55.06%
City Jakarta Selatan	9,200,000	331,200,000	4,500,000	162,000,000	169,200,000	51.09%
City Jakarta Timur	8,800,000	316,800,000	4,000,000	144,000,000	172,800,000	54.55%
City Jakarta Utara	9,600,000	345,600,000	4,500,000	162,000,000	183,600,000	53.13%
City Jakarta Pusat	9,300,000	334,800,000	4,500,000	162,000,000	172,800,000	51.61%
³ Tangerang dan City Tangerang Selatan	8,400,000	302,400,000	3,800,000	136,800,000	165,600,000	54.76%
City Depok	8,500,000	306,000,000	3,800,000	136,800,000	169,200,000	55.29%
City/Kabupaten Bogor	8,600,000	309,600,000	3,800,000	136,800,000	172,800,000	55.81%
City/Kabupaten Bekasi	8,400,000	302,400,000	3,800,000	136,800,000	165,600,000	54.76%

Sumber: Researcher

From the table above can be explained first that the house referred to the simulation based on the principle of horizontal separation is a 5-story flat house, meaning to avoid the use of elevators or elevators, the use of stairs for traffic up and down is assumed to be adequate. At the beginning of housing construction for the lower classes, in Malaysia and in Singapore also provides a house with 5 floors. Building area 36 square meters in the hope of two bedroom one living room as well as one dining room and kitchen. Establishment of reasonable land prices, based on research conducted for 5 floors in JABODETABEK area, the application of price Rp 3,800,000 per square meter is the result of research for some projects with optimistic price, class B contractor, with first and second quality building materials. Indicated buildings can last for at least 60 to 75 years. By price comparison if the result of this research is accepted by the government as a guide to open access to the people to get house with main duty and function of land bank as mentioned above, hence economical cost savings average more than 50% from price if applying adhesion principle vertical, where the people have to finance the land to buy a house. It is also hoped that with the concept of land provision for land banks for housing construction, as described in this paper, the research objectives to provide accessibility and accessibility while reducing the housing backlog for poor and low-income people in line with the goal of protecting the nation and the blood the general welfare, and the intellectual life of the nation and participate in undertaking eternal peace for all people and the world will be closer to reach.

E. Conclusion and Recommendation

The idea of this paper is how to take over the reclamation island in Jakarta from the cartels to be served for the advantage of people welfare in accordance with the idea of the constitution of Indonesia.

1. The idea of land bank placement is intended to reduce land speculation and reduce the level of land disputes due to investment and infrastructure development also positively impact on the provision of land for the construction of affordable housing for the poor and low-income communities and reduce the social gap between capital owners and the poor.
2. Development of sources of land provision from various elements of land issues, such as abandoned land, redistribution of plantation land, development and management of local assets, and former village cash lands and ulayat lands, and restore the function of land for the welfare of the people is a wise and wise if the government is present and take the role as initiator by mobilizing and developing the function of land bank. Only, the institutional land bank requires a form of legal entity is strong and non-profit.
3. Land tenure for the benefit of housing development through land banks is a great opportunity for poor and low-income people to get houses in a cheaper and easier way with the development of a new paradigm of land ownership separated from houses, where land is owned by land banks or parties which surrendered with a model of resignation does not mean acquisition, on the other hand the community can enjoy the infrastructure built by the land bank without having to have. Thus, people do not have to pay for land to own a house.

Recommendation

1. Establishment of land bank as it has been discourse should be done carefully considering that its activities will control some of the authority of the State's Controlling Right, in accordance with the intention of its establishment must be non-

profit and the legal-body establishment should be based on the law. The government needs to issue a new law while not yet having a new law on land bank, a law enforcement regime can be issued considering the problem of land provision has been a critical and urgent issue, since it has involved the loss of lives of the small people and lost opportunities for the government to develop its work program, especially the provision of land for the public interest.

2. Immediately established cadastral institution of the building as mandated by the new apartment law to be able to register buildings that are established separately from the ground, so that building buildings and house buildings can have legal certainty as an object that stands alone and has the properties of the material law to can be enjoyed, transferred, and pledged as collateral.
3. To strengthen the function of the land bank, it requires a more comprehensive thinking, including the capital of the establishment of land banks and sources of operational capital, with a base capital of at least Rp 10 trillion. To recruit officers in the land bank, strict selection is necessary, if necessary, involving psychologists, land law, organizations and institutions.
4. With the provision of land by the government then the management of the affordable housing environment, requires an independent management, which leads to community law communion percetakan or can also be called the ulayat percetakan against their respective environments.

A review of the reliability of land bank institution in Indonesia for effective land management of public interest

ORIGINALITY REPORT

16%

SIMILARITY INDEX

PRIMARY SOURCES

1	ijasos.ocerintjournals.org Internet	320 words — 2%
2	en.wikipedia.org Internet	218 words — 2%
3	repository.uia.ac.id Internet	184 words — 1%
4	jurnal.uns.ac.id Internet	126 words — 1%
5	core.ac.uk Internet	116 words — 1%
6	123dok.com Internet	90 words — 1%
7	ijmmu.com Internet	68 words — 1%
8	jurnal.radenfatah.ac.id Internet	68 words — 1%
9	eudl.eu Internet	64 words — < 1%

10	korancontradiction.home.blog Internet	57 words — < 1%
11	jurnal.unissula.ac.id Internet	54 words — < 1%
12	pubag.nal.usda.gov Internet	51 words — < 1%
13	faizahhusna.blogspot.com Internet	49 words — < 1%
14	repository.umsu.ac.id Internet	45 words — < 1%
15	properti.net Internet	42 words — < 1%
16	pembiayaan.pu.go.id Internet	33 words — < 1%
17	jsss.co.id Internet	32 words — < 1%
18	www.lekslawyer.com Internet	30 words — < 1%
19	Evasari Aprilia, Danar Guruh Pratomo. "Understanding the effect of reclamation in Jakarta Bay using a three-dimensional hydrodynamic simulation approach", AIP Publishing, 2018 Crossref	28 words — < 1%
20	ejournal.warmadewa.ac.id Internet	25 words — < 1%

- 21 Internet 24 words — < 1%
-
- 22 Neneng Salmiah, Fahmi Oemar, Reni Farwitawati. "Accounting System Design for Riau Province Sports Assets: Measuring rent system and Environment", IOP Conference Series: Earth and Environmental Science, 2020
Crossref 19 words — < 1%
-
- 23 www.gssrr.org
Internet 19 words — < 1%
-
- 24 Arif Firmansyah, Lina Jamilah. "The Concept of Good Faith In Complete Systemic Land Registration In Realizing Legal Guarantee", Administrative and Environmental Law Review, 2022
Crossref 18 words — < 1%
-
- 25 Nourma Dewi. "THE ROLE OF THE GOVERNMENT IN THE PROTECTION OF COMMUNITY LAND ON GREEN-ZONE", International Journal of Research - GRANTHAALAYAH, 2021
Crossref 17 words — < 1%
-
- 26 Garuda.Kemdikbud.Go.Id
Internet 15 words — < 1%
-
- 27 bk.menlh.go.id
Internet 13 words — < 1%
-
- 28 media.neliti.com
Internet 12 words — < 1%
-
- 29 www.iosrjournals.org
Internet 12 words — < 1%
-
- 30 www.jasindonet.com
Internet

12 words — < 1%

31 www.um.edu.mt
Internet

12 words — < 1%

32 R. Yuniar Anisa Ilyanawati, Sudiman Sihotang.
"CONSOLIDATION OF URBAN LAND FOR THE
CONSTRUCTION OF HOUSING FOR LOW INCOME
COMMUNITIES (LIC) IN THE CITIES OF BOGOR AND DEPOK",
JURNAL ILMIAH LIVING LAW, 2018
Crossref

11 words — < 1%

33 Adonia Ivonne Laturette. "Ulayat Right of
Customary Law Community", Pattimura Law
Journal, 2017
Crossref

10 words — < 1%

34 Imawan Sugiharto. "Protection of the
Environment through State Administrative Law",
International Journal of Criminology and Sociology, 2021
Crossref

10 words — < 1%

35 geomatejournal.com
Internet

10 words — < 1%

36 ikk.fema.ipb.ac.id
Internet

10 words — < 1%

37 repository.uib.ac.id
Internet

10 words — < 1%

38 www.laltell.com
Internet

10 words — < 1%

39 www.oapen.org
Internet

10 words — < 1%

40	jurnal.unpad.ac.id Internet	9 words — < 1%
41	lppm-unissula.com Internet	9 words — < 1%
42	repository.unhas.ac.id Internet	9 words — < 1%
43	sloap.org Internet	9 words — < 1%
44	www.researchgate.net Internet	9 words — < 1%
45	Eddy Rifai. "The Law Enforcement Against the Criminal Acts of Destruction of Crops", FIAT JUSTISIA:Jurnal Ilmu Hukum, 2018 Crossref	8 words — < 1%
46	Nurul Listiyani, M. Yasir Said. "Political Law on the Environment: The Authority of the Government and Local Government to File Litigation in Law Number 32 Year 2009 on Environmental Protection and Management", Resources, 2018 Crossref	8 words — < 1%
47	etheses.uin-malang.ac.id Internet	8 words — < 1%
48	journal.umy.ac.id Internet	8 words — < 1%
49	journalstih.amsir.ac.id Internet	8 words — < 1%
50	text-id.123dok.com Internet	8 words — < 1%

8 words — < 1%

51 Alpi Sahari. "Settlement Of Conflict Utilization Of Plantation Land Above Ulayat Rights Of Indigenous Communities", Fundamental: Jurnal Ilmiah Hukum, 2022 7 words — < 1%

Crossref

52 Natasha Marcella Geovanny, Marchelina Theresia, Devina Felicia Widjaja. "Analysis of Revocation of Land Rights by the Government Reviewed from the Concept of Loss", Cepalo, 2019 7 words — < 1%

Crossref

53 zombiedoc.com 6 words — < 1%

Internet

54 ppis.bsn.go.id 5 words — < 1%

Internet

55 repository.ubaya.ac.id 4 words — < 1%

Internet

EXCLUDE QUOTES ON

EXCLUDE SOURCES OFF

EXCLUDE BIBLIOGRAPHY ON

EXCLUDE MATCHES OFF