

THE IMPACT OF REVOCATION OF DETERMINATION OF DEVELOPMENT LOCATION ON CONSTRUCTION OF THE SAPANANG OVERPASS DEVELOPMENT

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Abstract

The Makassar–Parepare railway line is the first National Strategic Project (PSN) for the Trans Sulawesi National Railway network on Sulawesi Island, which started in South Sulawesi Province. The construction of the Sapanang Overpass, which is located in Sapanang Village, Bungoro District, Pangkep Regency, is an implementation of the mandate of Law Number 23 of 2007 concerning Railways to ensure the safety of train travel where the intersection of railway lines and roads is not at a level. Simultaneously, the construction of the Sapanang Overpass necessitates a sizable land area for detour work. The Acting Governor of South Sulawesi unilaterally revoked the Decree on Determining Development Locations, which served as the basis for land acquisition, citing the unfulfilled permit to transfer the use/disposal status of BUMN assets. This revocation causes legal uncertainty in land acquisition, which cannot be implemented, and the construction of the overpass cannot be completed according to the targets that have been set. The problem has been examined from multiple perspectives, including technical, legal, construction management, and public policy aspects. In the end, recommendations that can be implemented to follow up on this problem include utilizing policy instruments based on PSN regulations to get special attention from the central and regional governments, and orderly administration is the key to implementing good governance.

Keywords: *railway, Makassar-Parepare, Overpass, National Strategic Project (PSN), land acquisition*

Abstrak

Jalur kereta api Makassar – Parepare merupakan Proyek Strategis Nasional (PSN) jaringan Kereta Api Nasional Trans Sulawesi yang pertama di Pulau Sulawesi yang dimulai di Provinsi Sulawesi Selatan. Pembangunan Overpass Sapanang yang terletak di Kelurahan Sapanang Kecamatan Bungoro, Kabupaten Pangkep merupakan pelaksanaan amanat Undang-Undang Nomor 23 Tahun 2007 Tentang Perkeretaapian untuk menjamin keselamatan perjalanan perkeretaapian dimana perpotongan jalur kereta api dan jalan dibuat dengan tidak sebidang. Secara paralel pembangunan Overpass Sapanang membutuhkan luasan lahan untuk pekerjaan detour/ jalan putar. Surat Keputusan Penetapan Lokasi Pembangunan sebagai dasar pengadaan/ pembebasan lahan yang telah diterbitkan oleh Gubernur Sulawesi Selatan secara sepihak dicabut oleh Pj Gubernur Sulawesi Selatan dengan alasan izin alih status penggunaan/ pelepasan aset BUMN yang belum terpenuhi. Pencabutan ini menyebabkan ketidakpastian hukum dalam pengadaan lahan yang tidak dapat dilaksanakan dan pembangunan overpass tidak dapat diselesaikan sesuai dengan target yang telah ditetapkan. Beberapa tinjauan dari berbagai aspek dalam melihat masalah ini yaitu aspek teknis, aspek hukum, aspek manajemen konstruksi dan aspek kebijakan publik. Pada akhirnya rekomendasi yang dapat dilaksanakan untuk menindaklanjuti permasalahan ini seperti memanfaatkan instrument kebijakan berbasis regulasi PSN untuk mendapatkan perhatian khusus dari Pemerintah Pusat dan Pemerintah Daerah, dan tertib administrasi menjadi kunci dalam menjalankan *good governance*.

Kata Kunci: *Kereta Api, Makassar-Parepare, Overpass, Proyek Strategis Nasional, Pengadaan Lahan*

INTRODUCTION

The Makassar–Parepare railway line is the first National Strategic Project (PSN) for the Trans Sulawesi National Railway network on Sulawesi Island, which started in South Sulawesi Province. The population of South Sulawesi Province will be approximately 9.5 million in June 2024 out of a total of 20.3 million residents of the island of Sulawesi as a whole, making this province the province that has the largest passenger and goods travel patterns compared to other provinces on the island of Sulawesi.

In the National Railway Master Plan (RIPNas) and PSN contained in Presidential Regulation (Perpres) Number 56 of 2019 concerning the Second Amendment to Presidential Regulation Number 3 of 2016 concerning Acceleration of Implementation of National Strategic Projects, the Makassar–Parepare route is one of the priority routes. Construction of the Railway Line in Sulawesi. With the existence of the railway network across Makassar-Parepare, it is hoped that it will become an alternative transportation option on this corridor, both for passenger transportation and goods transportation, so that it can influence the development patterns of industry, trade, mining, and agriculture and can contribute to the economic development of the regions served.



Figure 1. Makassar – Parepare Railway Mainline

One part of the work in the construction of the Makassar–Parepare railway crossing is the construction of a non-level crossing, namely the construction of an overpass. This is an implementation of the mandate of Law Number 23 of 2007 concerning railways to

ensure the safety of train travel where the intersection of railway lines and roads is not at a level.

The location for the construction of this overpass is in Sapanang Village, Bungoro District, Pangkep Regency, South Sulawesi Province. This development is expected to provide benefits not only in terms of road user safety but can also provide added value to the surrounding community. This development concept is designed to be environmentally friendly by providing green open space in stages, and there will also be a program to build the South Sulawesi Railway Management Training and Training Building and warehousing infrastructure, so it is hoped that it will be an added value for residents around the construction site to be able to participate in activities well beforehand. and after.



Figure 2. Construction of the Sapanang Overpass



Figure 3. 3D Perspective of the Sapanang Overpass

Construction of the Sapanang Overpass began in October 2022, funded through the 2022-2024 MYC APBN by the Directorate General of Railways (DJKA) of the Ministry of Transportation with a completion target of completion by the end of 2024. During the construction of the overpass, a large area of land will be required, which will be used for detour work. This land acquisition work is planned in parallel with the overpass construction work.



Figure 4. Need for Overpass Land Acquisition

Based on Government Regulation (PP) Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest, before carrying out the land acquisition/acquisition, a Land Acquisition Planning Document (DPPT) is required as a condition for submitting a Development Location Determination

application by the Governor of South Sulawesi, where this application is in parallel; it has been submitted in February 2023.

It was only on July 2 2024 that South Sulawesi Governor's Decree Number 648/VII/TAHUN 2024 was issued regarding Determining the Location for the Construction of the Tonasa 2 Overpass in Sapanang Village, Bungoro District, Pangkep Regency and Jalan Damai Ongkoe, Maros Regency, Makassar Parepare Railway Line, South Sulawesi Province, with an area of ± 5.28 Ha (Five Point Two Eight Hectares), but Decree This only lasted for 3 months, to be precise, on October 2 2024, the Acting Governor of South Sulawesi revoked the Decree through the Decree of the Governor of South Sulawesi Number 1170/ of 2024 concerning the Revocation of the Decree of the Governor of South Sulawesi Number 648/VII/ of 2024 concerning Determination of the Location for the Construction of the Tonasa 2 Overpass in Sapanang Village, Bungoro District, Pangkep Regency and Jalan Damai Ongkoe, Maros Regency The Makassar Parepare Railway Line, South Sulawesi Province, covers an area of ± 5.28 Ha (Five Point Two Eight).

The revocation of the Governor's Decree regarding the determination of the construction location of course creates legal uncertainty in the process of continuing the construction of the overpass, where plans for land acquisition/acquisition for the required area of the overpass are hampered and the construction of the overpass becomes hampered and does not comply with the completion targets that have been set. The South Sulawesi Provincial Government argued that the revocation of the decree was due to permits for the transfer of status for the use/disposal of BUMN assets that had not been fulfilled. Of course, in the author's opinion, this is contrary to Article 43 of Government Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest, that in the event that the permit for the transfer of use/disposal status of assets is not fulfilled without written information from the relevant agency, then the Determination of the Development Location, which has been issued, functions as a permit to transfer the status of use/disposal of assets.

In this study, the problem formulation that can be constructed can be seen from various aspects, such as technical aspects, legal aspects, construction management aspects, and public policy aspects, including the following:

1. How is the completion of the overpass construction progressing?

2. What is the legal certainty regarding the continuation of construction and the land acquisition process for the overpass construction?
3. How is the coordination between the central government and regional governments, especially in resolving the issue of revocation of development location designation?
4. What potential will be faced, both technically and legally, if the overpass construction is not on target/late?

The purpose of writing this study is as follows:

1. Provide a big picture not only from a technical perspective of the construction of the Sapanang Overpass but also from a legal perspective, construction management, and public policy aspects.
2. Recommend solutions and follow-up actions that can be implemented for problems that occur.

RESEARCH METHOD

In this study, the research method used is several approaches carried out in a normative empirical juridical manner, such as the approach to legislation, case approach, and comparative and conceptual approach.

Postpositivism is a school of thought that wants to improve weaknesses in positivism. Postpositivism agrees with positivism that reality is real and exists according to natural law. But on the other hand, postpositivism argues that humans cannot obtain the truth from reality if researchers distance themselves from reality or are not directly involved with reality. The relationship between researchers and reality must be interactive; for this reason, it is necessary to use the principle of triangulation, namely the use of various methods, data sources, data, and others.

Normative-empirical legal research is legal research based on legal research that not only examines the normative system in legislation but also observes the reactions and interactions that occur when the normative system works or is applied in society as the object of its study.

The normative-empirical legal research method is basically a combination of normative legal research with empirical legal research. Normative-empirical legal research is related to the provisions of normative law, legislation (norms or rules), and their implementation in every legal event that occurs in a society.

This study uses secondary data in the form of regulations as the main data and primary data in the form of interviews with related parties as supporting data. The secondary data collection method used in this study is literature study or documentation techniques consisting of literature studies. This is obtained from data collection through library research by studying books/literature related to the title and problems discussed in this study. It can also be done with document studies, namely data obtained through legal materials in the form of legislation related to this study.

Data analysis is also called data processing and interpretation. According to Nasution (1992), data analysis is the process of compiling data so that it can be interpreted; compiling data means grouping it into patterns, themes, or categories. In an effort to answer or solve the problems raised in this research, this research method uses data that is qualitative analysis because the data obtained is quality and not quantity. After data collection, analysis is then carried out so that conclusions can be drawn that can be scientifically justified.

RESULTS AND DISCUSSION

The initial objective of the construction of the project located in South Sulawesi was to build the Trans Sulawesi National Railway network, with the initial stage focusing on the railway line connecting the Makassar and Parepare regions with the initial objective as a mode of freight transportation. However, at this time, the operation of the railway has shifted to a mode of transportation for people and goods.

Most of the problems related to the progress of the current work implementation are related to the planning, design, and quality of the implementation of the previous year's work. When evaluating the factors causing the problem, the Author experienced several obstacles, especially the availability of planning and design documents for the work being carried out.

There are several aspects that influence the findings in this review. First, the technical aspect, although it can be said to be sufficient, the Author still has not found several planning documents as a whole, including the FS, SID, and DED documents. This is used to detect the causal factors on the level crossing road on the railway line on a special road owned by a State-Owned Enterprise (BUMN) where there was a delay in the

implementation of construction due to the revocation of the permit to determine the location of the construction by the Acting Governor of South Sulawesi.

The second is the legal aspect; the revocation of the Decree on the Determination of the Development Location certainly has the potential to cause legal impacts. The South Sulawesi Provincial Government argued that the revocation was due to the permit for the transfer of status of use/release of BUMN assets that had not been fulfilled. Of course, the Author still questions this, considering that the Decree on the Determination of the Development Location that had been issued had certainly gone through stages in fulfilling aspects and rules in issuing legal products in accordance with applicable laws and regulations but was suddenly revoked by the Acting Governor on the grounds that there were permits that had not been fulfilled. This, of course, makes the construction of the Sapanang Overpass, which is currently being implemented, have no legal certainty.

The third is the aspect of construction management. In this aspect, there was a delay in the completion of the construction of the Sapanang Overpass, considering that the need for land acquisition for the construction of the overpass has not been met. The fourth aspect is the aspect of public policy. The lack of coordination between the Central Government and the Government and the parties involved (BUMN) in this infrastructure development plan, as well as socialization to the surrounding community, also provide obstacles in the completion of the construction of the Sapanang Overpass. In the end, the revocation of the decree on the determination of the development location by the Acting Governor of South Sulawesi has a long-term impact on the delay in the completion of the construction of the Sapanang Overpass.

CONCLUSION

In general, the impact of the revocation of the decree on the determination of the location of the Sapanang overpass construction issued by the Governor of South Sulawesi has a broad impact on the completion of the Sapanang Overpass construction. The revocation of the decree not only causes the cessation of construction completion work but also causes other potentials to arise. The impact of the revocation of this decree can be seen from the perspective of technical, legal, construction management and public policy aspects.

There are several things that can be concluded that can be described regarding the revocation of the decree on the determination of the location of the Sapanang Overpass construction as follows:

1. Land acquisition and overpass construction do not have clear legal certainty.
2. Completion of the overpass construction work does not match the set target.
3. The need for coordination and socialization between the Central Government and Regional Governments as well as BUMN and the community in an effort to resolve existing problems so as not to hinder infrastructure development in South Sulawesi Province.

The construction of the Makassar-Parepare railway line as a real manifestation of "Nawacita" to realize economic independence on the island of Sulawesi, especially South Sulawesi Province, is a real form of "the state being present" in the midst of society and not focusing only on the island of Java (Indonesia Centris). There are at least several things that can be followed up on so that the Decree on Determination of Development Location can be reissued and become the basis for land acquisition so that the completion of the construction of the Sapanang Overpass can be completed immediately, including the following:

1. The Directorate General of Railways (DJKA) can utilize PSN regulation-based policy instruments to get special attention from the Central Government and Regional Governments.
2. Coordinate with relevant stakeholders and continue to socialize with the community regarding the plan to accelerate development and railway safety.
3. Orderly administration is the key to implementing good governance, so all administrative obstacles found must be followed up immediately and completed so that the project work process can be continued.
4. A good data/document documentation system is required so that data/documents are not attached to people but to the system, and data/documents can be accessed for the benefit of DJKA in accordance with its authority.

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