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LAND USE PERMIT AND LAND USE IN BANJARBARU CITY

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Abstract

This study aims to study and determine the regional authority and the appropriate content in regulating Land Designation and Use Permits and to determine the position of Regional Regulation Number 10 of 2003 concerning Designation and Use Permits Banjarbaru City Land.According to the results of this study, it shows that: First, the basis for regulating land use and allocation permits is Law Number 26 of 2007 concerning Spatial Planning Article 61 and Government Regulation Number 15 of 2010 concerning Implementation of Spatial Planning in the provisions of Article 163 paragraph (1) letter c. Second, the land use and designation permit are in the domain of spatial planning, not the domain of land regulations which only comes to the determination of ownership rights, the domain of spatial planning enters at the level of land designation and use, thus this arrangement is in addition to the regulation of land parcels which focuses on ownership rights have restrictions by the authorities in this case the state. Third, the Regional Regulation Number 10 of 2003 concerning the Permit for the Designation and Use of Land in the City of Banjarbaru is no longer under the provisions of higher laws and regulations and must be revoked because enacting these provisions is tantamount to being unfounded and against the principle of the rule of law where every government action must be based on applicable law. Fourth, the Banjarbaru City Government should be careful in its legislative program so that regulations such as Regional Regulation No. 10 of 2003 concerning the Designation and Use of Land are made new and at the same time revoke the old ones. In addition, making local regulations must be under the correct formation mechanisms and procedures.

Keywords: Licensing, Land, Banjarbaru City.

INTRODUCTION

The land is an irreplaceable asset, its existence will always be worth more than other material values, so that land rights become very authentic things attached to it. Every land ownership must be proven based on the minutes of its existence and the determination from the government through its administrative organization (Harsono, 1999).

The land is designated by each control over it, whether it is the construction of buildings that are attached to the land or other designations. Such utilization is closely related to the horizontal relationship of the land with the presence of the surrounding land and local spatial planning (Forasidah, 2021). The designation and use of land actually need to be deepened because it is very closely related to function, meaning that allotment is a function of the land itself depending on the government's policy in determining its spatial plan (Arjina and Kustiwan, 2019). Thus the designation and use of land have a social function dealing with the private interests of its ownership.

The Regional Government in regulating land designation by enacting regional regulations concerning land allocation and use permits (Sunarno, 2012). The existence of these regulations is usually followed by the withdrawal of user fees (Sjamsu et al., 2017). In this study, the authors took one area, namely the City of Banjarbaru which has a regional regulation on land allocation and use permits, namely Regional Regulation Number 10 of 2003 concerning Land Designation and Use Permits. In this regulation, there are many legal problems, especially related to "the period" where based on time shifts there have been many changes to higher legal rules so that regulations that are materially not under higher rules must be revoked so that legal certainty can be achieved. At first glance, the regulation in Banjarbaru City does not show any action to change or impose new provisions following the development of the above legal rules or it is no longer possible to enforce it because it does not have a clear basis or has been abolished for such enforcement because it is contradictory or not constitutionally appropriate.

In its implementation, government actions from the Banjarbaru City Government regarding Land Use and Designation Permits apply to land with an area of 2,500 M2 (Two thousand five hundred square meters) and every person, legal entity and other business entity that utilizes the land either to construct buildings or other facilities, must have a land use allotment permit in accordance with the regional spatial plan. In addition, there is also an obligation to prepare 30% of the land area for public facilities and the width of the main road of the housing complex must be 10 (ten) meters wide, while the environmental road must be 8 (eight) meters wide. However, in reality these provisions are not implemented as they should be.

This condition raises several questions related to the regulatory material contained in the regional regulation on land use and allocation permits, isn't this material a special arrangement for large land ownership, in contrast to a small area such as the classification for residential houses which is identical to the regulation? Building Permits, as well as arrangements regarding Building Border Lines. In essence, arrangements for the designation and use of extensive land are needed.

RESEARCH METHODS

In this study the author uses normative legal research methods, the method used by this author is done by collecting library materials both printed and digital in the form of literature, journals, scientific works, articles containing theories and opinions of experts as well as laws and regulations. invitations relating to the field of administrative law concerning licensing and the field of land law concerning the designation and use of land.

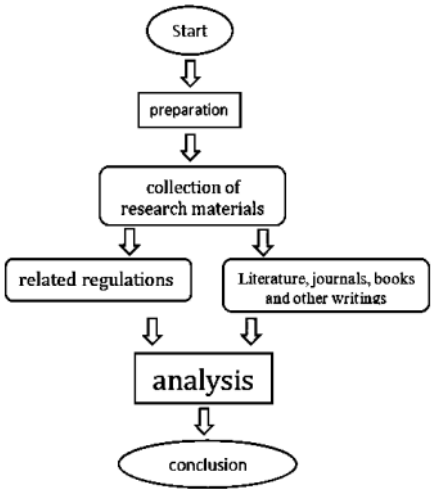

Figure 1. The Flow of Research Implementation

RESULTS AND DISCUSSION

Regulation of Land Use and Use Permits

Specific questions in enforcing local regulations concerning land use and allocation permits for what purpose? based on a study of Jeremy Bentham's concept of ownership which is based on law, in the form of precision rules to show that an object has ownership and can be used by someone or is useful to its owner (the result of legal work) (Effendy, 2010).

Furthermore, Bentham's main concept of "Property is nothing but the basis of the expectation to obtain some benefits from something that we have as a consequence of the relationship we live". Linking it with population growth and development activities, especially in urban areas, is increasing, the pressure on land also increases, in the end it will simultaneously lead to various forms of competition of interests to use the space above the land surface (strata title), the use of strata rights, condominium rights servitudes (Right of Building) so far are still influenced by the principle of attachment to the Civil Code. According to Jantien Stoter, such a matter invites a complicated problem, that land rights are not limited in a vertical direction, these rights extend from the center of the earth to the sky (Stoter, 2022).

Jantien Stoter's opinion is correct, if there is a limitation in ownership there must be restrictions. In a plot of land with civil rights, people may designate and use it for purposes that may result in incompatibility with the local environment, especially in spatial planning that has been planned by the local government. Thus, in the context of ownership, it should be noted that even if the restrictions are issued by the authorities so that they apply generally and are binding, of course through the rule of law (Ismaya, 2011).

A person who builds a building on the land is commonplace and is given constitutional protection with regard to his civil rights [The principle of attachment known in the Civil Code consists of horizontal (horizontal) and vertical (vertical) attachments]. The boundaries of interests above land require efforts to reflect the vertical dimension of legal status. With regard to land ownership rights, the vertical direction is based on real private ownership, and the government's interest in increasing the efficiency of land use, completion of land rights

registration and measurement, which is aimed at practical solutions to registration of rights in 3 (three) dimensions (Damayanti, 2011). Including strata registration in Indonesia such as registration of property rights to flat units, handling of registration of rights in 3 (three) vertical dimensions, there are few exceptions to land registers, having difficulty registering ownership and other rights to objects above ground level, using Strata Title legislation, because in big cities, especially metropolitan areas, there is growing interest and need in the use of space for development, but the land registration laws and regulations do not take into account the above needs (Koswara, 2001).

The power of government to make arrangements on the allocation and use of land at the level of the most basic specified in Law No. 5 of 1960 on Basic Regulation of Agrarian (BRA) define the meaning of "right of control of the state" in Article 2 paragraph (2) as authority for writing do not use chapter separation by numbers. The division between Titles, Sub-Titles, and Sub-Titles is carried out in the following order implement the;

1) regulate and changes, use, supply and maintenance of the earth, water and space;
2) determine and regulate legal relations between people and the earth, water and space;
3) determine and regulate legal relations regarding earth, water and space.

Furthermore, it is stated that the controlling authority referred to in paragraphs (3) and (4) is used to achieve the greatest prosperity of the people and its implementation can be delegated to the regions and customary law communities. In the general explanation it is more emphasized that the state does not own, but acts as the holder of power (Sunarso, 2006).

Actually in Article 1 it has been stated that land and water are inseparable unit. The provisions of Article 1 are as follows:

1) The entire territory of Indonesia is a unitary homeland of all Indonesian people who are united as the Indonesian nation.
2) The whole earth, water and space, including the natural wealth contained therein within the territory of the Republic of Indonesia, as a gift from God Almighty are the earth, water and space of the Indonesian nation and constitute national wealth.
3) The relationship between the Indonesian nation and the earth, water and space referred to in paragraph (2) of this article is an eternal relationship.
4) In terms of the earth, in addition to the earth's surface, it includes the body of the earth below it and those underwater.
5) In terms of water, it includes both inland waters and seas in the Indonesian territory.

In relation to regulating the designation and use of land, it is basically an additional regulation. GS Kumar emphasized that another better development is the making of additional provisions on existing regulations to suit changing situations (Sutedi, 2010). As mandated in Article 4 paragraph (2) of the BAL, it is stated that the rights to the land referred to in paragraph 1 of this article authorize the use of the land in question, as well as the body of the earth and water and the space above it, which is only needed for the interests of the people concerned, directly related to the use of the land within the limits according to this law and other higher legal regulations. Furthermore, paragraph (3) of this article states, in addition to land rights as referred to in paragraph 1 of this article, rights to water and space are also determined. As for the full text of the provisions of Article 4, as follows:

1) Based on the right of control from the State as referred to in Article 2, it is determined that there are various types of rights on the surface of the earth, which are called land, which

can be given to and owned by people, either alone or on their own. as well as together with other people and legal entities.

2) The rights to land as referred to in paragraph (1) of this article authorize the use of the land in question, as well as the body of the earth and water and the space above it, only as necessary for interests directly related to the use of the land within the limits according to This Act and other higher legal regulations.
3) In addition to land rights as referred to in paragraph (1) of this article, rights to water and space are also determined.

From a legal perspective, land is a concept that includes space and physics from the center of the earth to something that is not limited in space. The legal perspective on land will be limited to a concept of the volume of space above the earth's surface, including the area of all skyscrapers and technical constructions affected by the use of "rights to air" space, which is the space above ground level (Marbu, 2001). Without guarantees of certainty and protection that provide a sense of security regarding land rights, a sustainable development will not be realized (Ridwan, 2006).

Access to housing as an important need, a sense of security in land tenure as an essential settlement policy, certainty about the legal status of land ownership, which depends on the full responsibility of the state in using the land registration system, the legal status of ownership, value and use of land in its utilization will touch and be closely related to various land policies and issues, such as new legal institutions and institutions that implement them, the technology used and the law in various aspects (Huda, 2007).

Understanding the Strata Title concept is an idea and solution to meet the ever-increasing need for land, due to population growth and development activities, especially in urban areas, there is an interest in using the space above and below the land surface, its legal status in land registration and land rights, until is currently unclear and these needs are not taken into account. Through the completion of Strata Title rights registration ownership and measurement, which is aimed at practical solutions to the registration of rights in 3 (three) Dimensions (Firdaus et al., 2021). The concept of Strata Title contains the meaning of ownership of property rights – strata ownership up and down from a building that has two or more levels, in jurisdiction the concept of ownership of 3 (three) dimensions owned by other people as a separate matter from the ownership of the right to soil (Indradi, 2019).

From the above description, in principle, the allotment and use of land have an indirect relationship with the issue of strata title, it's just that the issue of strata title relates the designation and use of land in the context of joint rights to space on land equated with the position of social functions, which must be regulated separately through permits (Santoso, 2001). Therefore, it is necessary to enforce a permit for the designation and use of land.

Settings Permits for Designation and Use of Land in the City of Banjarbaru

Key that must be considered in a legal study because it is related to the rules, the rules must be considered from the point of view of a). foundation of its formation b). validity period, and c). implementation.

For the basis of its formation in the theoretical study, it is clearly explained above that it is indeed necessary to have "additional rules for the designation and use of land" this is related to social functions and other public interests attached to land parcels for civil ownership. Strengthening the regulation begins with a plan for an area based on the desire to control space so that it can function properly and its relationship to the overall aspect of community life.

The basis for the regulation at the level of legislation which is higher than the evaluation of the regulations that are the secondary material of this research, the specific arrangements are in the following laws and regulations.

1. Law Number 23 of 2014 concerning Regional Government

According to Law Number 23 of 2014 concerning Regional Government as last modified by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government, it is stated that the regional government is the head of the region as an element of regional government administrators who leads the implementation of government affairs that become the authority of the autonomous region. Meanwhile, Regional Government is the administration of government affairs by the regional government and the Regional People's Representative Council according to the principle of autonomy and assistance tasks with the principle of autonomy as wide as possible within the system and principles of the Unitary State of the Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia.

Every government Regions are led by a democratically elected Regional Head. Governor, Regent, and Mayor respectively as Head of Provincial, Regency and City Government. The regional head is assisted by one deputy regional head, for the province it is called the deputy governor, for the district it is called the deputy regent and for the city it is called the deputy mayor. The head and deputy head of the region have duties, authorities and obligations as well as prohibitions. Regional heads also have the obligation to provide reports on the implementation of regional government to the Government, and provide accountability reports to DPRD, as well as informing reports on the implementation of regional government to the public.

In order to carry out the roles of decentralization, deconcentration and co-administration, local governments carry out concurrent government affairs, in contrast to the central government which carries out absolute government affairs. Concurrent Government Affairs are divided between the Central and Regional Governments of provinces and districts/cities. The division of affairs is based on the principles of accountability, efficiency, and externalities, as well as national strategic interests. The government affairs are the basis for the implementation of Regional Autonomy. Regional Autonomy will be discussed next.

Concurrent government affairs consist of mandatory and optional government affairs. Government affairs must be subdivided into Government Affairs relating to Basic Services and Government Affairs not relating to Basic Services.

With regard to defense affairs as mentioned in article 12, these land affairs are included in mandatory government affairs which are not related to basic services.

2. Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Government and Regency/Municipal Government, it is stated that the authority of the regional government in the land sector as stated in article 7 paragraph (2) letter r, where land affairs are included in the mandatory affairs that organized by the local government.

2

3. Law Number 26 of 2007 concerning Spatial Planning Articles that contain links to land designation and use, include.

As stated in Article 26 where the district spatial planning plan must contain:

a. objectives, policies, and strategies for district spatial planning;

b. the spatial structure plan for the regency area which includes the urban system in its territory related to the rural area and the district area infrastructure network system;
c. district spatial pattern plan which includes district protected areas and district cultivation areas;
d. determination of district strategic areas;
e. directions for the utilization of district space which contains indications of the main five-year medium term program; and
f. provisions for controlling the use of district space, which contain general provisions for zoning regulations, licensing provisions, provisions for incentives and disincentives, as well as directions for sanctions.

Furthermore, the district spatial plan becomes a guideline for the following matters:
a. preparation of regional long-term development plans;
b. preparation of regional medium-term development plans;
c. utilization of space and control of space utilization in the regency area;
d. realizing integration, linkage, and balance between sectors;
e. determination of location and function of space for investment; and
f. spatial planning of district strategic areas.

Based on the district spatial plan, it becomes the basis for the issuance of permits for construction sites and land administration. Where the term of the district spatial plan is 20 (twenty) years. Including in the case of reviewing district spatial plans, it can be reviewed 1 (one) time in 5 (five) years, as stated in Article 26 paragraphs (3), (4) and (5) in the Spatial Planning Law.

In certain strategic environmental conditions related to large-scale natural disasters stipulated by statutory regulations and/or changes to state territorial boundaries, provincial territories, and/or district areas stipulated by law, the district spatial planning plans are reviewed more closely. than 1 (one) time in 5 (five) years (Article 26 paragraph (6) of the Spatial Planning Law).

In the provisions of this Spatial Planning Law, district spatial plans are stipulated by district regulations, because this concerns the public interest.

Article 28

3 Provisions for district spatial planning as referred to in Article 25, Article 26, and Article 27 apply mutatis mutandis for urban spatial planning, with provisions other than the details in Article 26 paragraph (1) added:

a) plans for the provision and utilization of green open space;
b) plan for the provision and utilization of non-green open space; and
c) plans for the provision and utilization of pedestrian network infrastructure and facilities, public transportation, informal sector activities, and disaster evacuation rooms, which are needed to carry out the functions of the city area as a center for socio-economic services and a center for regional growth.

Article 33

1) Spatial utilization refers to the spatial function stipulated in the spatial plan carried out by developing land use, water management, air management, and other natural resource management.

2) In the framework of developing the stewardship as referred to in paragraph (1), activities are carried out for the preparation and determination of the land use management balance, the water resources management balance, the air management balance sheet, and the other natural resource management balance sheet.
3) Land use in the space planned for the construction of infrastructure and facilities for the public interest gives the Government and local governments the first priority right to receive the transfer of land rights from the holders of land rights.
4) In the use of space in a space that functions as a protection, first priority is given to the Government and local governments to accept the transfer of land rights from the holder of land rights if the person concerned will relinquish his rights.
5) Further provisions regarding land use, water management, air management, and other natural resource management as referred to in paragraphs (1) and (2) shall be regulated by government regulations.

Article 55

Control of space utilization is carried out through stipulation of zoning regulations, licensing, provision of incentives and disincentives, as well as imposition of sanctions.

Article 37

1) Licensing provisions as referred to in Article 35 are regulated by the Government and regional governments according to their respective authorities in accordance with the provisions of laws and regulations.
2) Space utilization permits that are not in accordance with the regional spatial layout plan are canceled by the Government and regional governments according to their respective authorities in accordance with the provisions of laws and regulations.
3) Space utilization permits issued and/or obtained without going through the correct procedure are null and void.
4) Space utilization permits obtained through correct procedures but later proven not to be in accordance with the regional spatial planning plan, are canceled by the Government and regional governments in accordance with their respective authorities.
5) For the loss caused by the cancellation of the permit as referred to in paragraph (4), a proper compensation may be requested from the agency granting the permit.
6) Space utilization permits that are no longer appropriate due to changes in the regional spatial plan can be canceled by the Government and local governments by providing appropriate compensation.
7) Every government official who is authorized to issue space utilization permits is prohibited from issuing permits that are not in accordance with the spatial plan.
8) Further provisions regarding procedures for obtaining permits and proper replacement procedures as referred to in paragraphs (4) and (5) shall be regulated by government regulations.

Article 61

In the use of space, everyone is obliged to:
a) obey the spatial plan that has been determined;
b) utilize the space in accordance with the space utilization permit from the authorized official;
c) comply with the provisions stipulated in the space utilization permit requirements; and

d) provide access to areas which are declared as public property by the provisions of laws and regulations.

Based on the rules of Article 61, it can be concluded that each person cannot use space arbitrarily without heeding the Regional Spatial Plan that has been set by the government, or utilize space without permission from the government through an authorized official. This is, among other things, the rationale for the need for regulation of Space Use and Utilization Permits or also known as Land Designation and Use Permits. Such permits are not part of the authority of the Land Office but are the authority of the Regional Government through the Office of Spatial Planning/City Planning.

Control of space utilization is carried out through the stipulation of zoning regulations, permits, provision of incentives and disincentives, and the imposition of sanctions. Zoning regulations are guidelines for controlling the use of space. This regulation is prepared based on a detailed spatial plan for each space utilization zone. Zoning regulations are established by:

a) government regulations for the direction of national system zoning regulations;
b) provincial regional regulations for the direction of provincial system zoning regulations; and
c) district/city regulations for zoning regulations.

Provisions for zoning permits are regulated by the Central Government and Regional Governments according to their respective authorities, in accordance with the provisions of laws and regulations. Space utilization permits that are not in accordance with the Regional Spatial Planning can be canceled by the Central Government and Regional Governments according to their respective authorities in accordance with statutory regulations.

Space utilization permits issued and/or obtained through incorrect procedures are declared null and void. Space utilization permits obtained through correct procedures but are later proven not to be in accordance with the RT/RW can be canceled by the Central Government and Regional Governments according to their respective authorities. Losses caused by the cancellation of the permit can be requested for appropriate compensation from the permit issuing agency.

4. Government Regulation Number 15 of 2010 concerning the Implementation of Spatial Planning

This PP is a PP that delegates the formation of regional regulations regarding "permits to use land use", as stated in Article 163, which reads:

1) Space utilization permits as referred to in Article 162 paragraph (1) can be in the form of:
   a) principle permit;
   b) location permission;
   c) land use permit;
   d) building permit; and
   e) other permits based on the provisions of laws and regulations.

2) The space utilization permit as referred to in paragraph (1) shall be granted by the district/municipality regional government.

In the elucidation of this Article 163 it is stated:
Paragraph (1)
Letter a

What is meant by "principle permit" is a permit issued by the Government/regional government to declare an activity in principle permitted to be held or operated.
The principle permit is a consideration of land use based on technical, political, and socio-cultural aspects as the basis for granting location permits.
The principle permit can be in the form of a land use designation letter (SPPL).

Letter b
What is meant by "location permit" is a permit granted to an applicant to obtain the space needed to carry out his activities.
Location permits are the basis for land acquisition in the context of space utilization.
A location permit is granted based on a principle permit if based on applicable local regulations a principle permit is required.

Letter c
Permit to use land is the basis for an application to construct a building.

Letter d
Building permits are the basis for constructing buildings in the context of space utilization.
Letter e
Self-explanatory.

Paragraph (2)
Self-explanatory.

Article 165

1) Principle permits and location permits as referred to in Article 163 paragraph (1) letter a and letter b are granted based on the regency/municipal spatial layout plan.
2) Permit to use land as referred to in Article 163 paragraph (1) letter c is granted based on a location permit.
3) The building permit as referred to in Article 163 paragraph (1) letter d is granted based on a detailed spatial plan and zoning regulations.

In the explanation it is stated:
Paragraph (1)
The principle permit cannot be used as the basis for the implementation of space utilization activities.
A location permit is required for space utilization of more than 1 (one) hectare for non-agricultural activities and more than 25 (twenty five) hectare for agricultural activities.

Paragraph (2)
Self-explanatory.

Paragraph (3)
A building construction permit is granted based on a zoning regulation as the basis for a permit holder to construct a building according to a predetermined function and a building technical plan that has been approved by the district/city government.

Based on the provisions of Article 163 paragraph (1) letter c, it is clear that the actual Land Use and Designation Permits in the area are actually not the domain of the land sector, but the domain of the spatial planning sector, because the domain of the land sector is more concerned with dealing with the issue of land ownership rights. and land management while the social function of land itself is more identical with spatial planning where the role of the government is the determining point for a space to be designated and used for anything. Thus, "Land Use and Designation Permit" is a permit granted by the regional government to individuals or entities to use land in accordance with the Regional Spatial Plan, which includes the Regional Spatial Plan, the General City Spatial Plan, and Urban Spatial Engineering Plan or site plan.

In this PP, the term "Spatial Utilization Permit is known, namely a permit required for space utilization activities in accordance with the provisions of the legislation. In the use of space, everyone is required to have a space utilization permit and is obliged to carry out every licensing provision in the implementation of space utilization. Space utilization permits are given to potential space users who will carry out space utilization activities in a certain area/zone based on the Regional Spatial Planning.

Observing the Regional Regulation No. 10 of 2003 on Land Use Permit Allocation and Banjarbaru, there are various conditions that must be considered, while the case is as follows.

a. Basic recal
   1) Remember cornerstone legislation has been widely Act which no longer apply, namely:
   - Law Shrimp number 24 of 1992 concerning spatial planning (State Gazette of 1992 number 115, additional State Gazette number 3501);
   - Law number 23 of 1997 concerning environmental management (State Gazette 1997 number 68, additional sheet number 3699);
   - Law number 34 of 2000 concerning amendments to Law Number 1997 concerning regional taxes and regional levies (State Gazette of 2000 number 246, additional State Gazette number 4048);

   2) The use of the Criminal Law and Criminal Procedure is inappropriate because the Regional Regulation adheres to a state levy regime, it should be for sanctions referring to the threat in the Tax and Retribution Law.
   3) Decision-making as a basis for remembering is something that is not justified in the hierarchy of laws and regulations because it will make this Regional Regulation not have a clear binding force as the decision is a technical issue, not a norm.

b. The content

The title of the Regional Regulation Licensing Material but the material is directly included in the Levy Collection. For now, based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, the provisions for Levies no longer exist, as for the provisions referred to, as follows:

Article 110

Types of Public Service Retribution are:

a) Health Service Retribution;
b) Garbage/Cleaning Service Retribution;
c) Retribution for Reimbursement for Printing Identity Cards and Civil Registry Deeds;

d) Burial Service Fees and Burial of the Dead;
e) Parking Service Fees on the Edge of Public Roads;
f) Market Service Charges;
g) Motor Vehicle Testing Retribution;
h) Fire Extinguisher Inspection Fee;
i) Map Printing Fee Reimbursement;
j) Levy for the Provision and/or Drainage of Toilets;
k) Liquid Waste Treatment Fees;
l) Retribution for Calibration/Recalibration Services;
m) Education Service Fees; and
n) Telecommunication Tower Control Retribution.

Article 127

Types of Business Services Retribution are:
a) Retribution for the Use of Regional Assets;
b) Wholesale Market and/or Shops Retribution;
c) Auction Place Retribution;
d) Terminal Charges;
e) Retribution for Special Parking Places;
f) Retribution for Lodging/Restaurant/Villa;
g) Slaughterhouse levies;
h) Port Service Retribution;
i) Retribution for Recreational and Sports Places;
j) Water crossing levies; and
k) Retribution for Sales of Regional Business Production.

Article 141

Types of Retribution for Certain Permits are:
a) Retribution for Building Construction Permits;
b) Levies for Permits for Selling Alcoholic Drinks;
c) Nuisance Permit Charges;
d) Route Permit Retribution; and
e) Retribution for Fishery Business Permits.

The name of the retribution for the allotment and use of land is still under consideration, because there are provisions as follows:

Article 150

Types of levies other than those stipulated in Article 110 paragraph (1), Article 127, and Article 141 as long as they meet the following criteria:
a) …
b) … ..
c) Specific Licensing Retribution:
   - the permit includes the authority of the government which is handed over to the Regions in the framework of the principle of decentralization;
   - the permit is really needed to protect the public interest; and the

- costs that become the burden of the Region in administering the permit and the costs of overcoming the negative impacts of the granting of the permit are large enough so that it is feasible to be financed from licensing fees; determined by Government Regulation.

c. Regional Regulation is unstructured, so it is difficult to implement between the normalization of retribution and permits, because at the time of normalizing retribution, the retribution class appears in Chapter III which contains permission issues.

d. The regional regulation regulates the area In Article 1 letter (i):

Land use permit levies, hereinafter referred to as levies, are payments for granting land use allotment permits to individuals or entities that will use land covering an area of 2,500 m2 onwards.

It is very ambiguous, the precision of the normalization that is made should be included in the regulation of the area in the permit, not the retribution where the ownership of land with the area for its designation and use must have a permit. So it is clear that this regulation actually needs improvement for its completion.

e. Sanctions are raised first and then there is an investigation in the formation of legal rules, the provisions of the investigation must be reversed first and then sanctions.

CONCLUSSION

The domain of land use and designation permits is in spatial planning not the domain of land regulations which only comes to the determination of ownership rights, the domain of spatial planning is entered at the level of land designation and use, thus this arrangement is in addition to the regulation of land parcels which focuses on rights. ownership has restrictions by the authorities in this case the state. Regional Regulation Number 10 of 2003 concerning Permits for the Designation and Use of Banjarbaru City Land is no longer under the provisions of higher laws and regulations and must be updated because enforcing these provisions is tantamount to being unfounded and against the principle of the rule of law where every government action must be based on applicable law.

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