

Spatial Planning Policy Based on Local Potential in Pamekasan Regency: An Indonesian Legal Perspective

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Abstract

This study aims to obtain legal construction approval from the village community on land use for regional development based on local potential. The concept of regional development was developed from the need for a region to improve its function and role in managing social, economic, cultural, educational and welfare life. Duko Village, Larangan District, Pamekasan Regency has great potential in the form of herbal chili plants. Village authority based on the right of origin (recognition) is the right of the village to organize its government based on the initiative of the village community in accordance with the original culture of the village community which does not conflict with the law. The authority based on this right of origin includes the management of natural resource assets. It is hoped that the spatial pattern arrangement process for herbal chili plants in Duko Village is able to change people's behavior to be innovative and productive so that they can make people independent. Thus, there is a need for a juridical analysis in order to find the construction of community approval for the use of money patterns for herbal chili plants in Duko Village. This type of research is socio legal research with a fact approach. The results showed that the character of the community's approval of the use of their land with chili herbal commodities was an agreement with the granting of power of attorney. Power is granted through a mechanism regulated in the Village Law. However, the model of approval given by the community for this spatial pattern arrangement has fulfilled the requirements for the validity of the agreement as stipulated in Article 1230 BW. This form of approval is stated in the village spatial planning (RTRW Desa) document with a legal product in the form of village regulations.

Keywords: Spatial; Planning; Potential; Local; Village

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1. Introduction

Village development, by considering spatial and territorial aspects, is expected to be implemented to formulate plans made at the local level that are strategically integrated with inter-village, inter-regional, and higher (national) development plans. Regional development is an important part of regional development, especially in rural areas, which are very vulnerable and difficult to face on a global scale.

Agustian Rohiani's research found that village spatial planning is a new thing for the village government and does not yet have guidelines, so the central or regional government should prepare village spatial planning guidelines and immediately carry out socialization and education. Meanwhile, in this paper, we will discuss how the arrangement of spatial patterns can be implemented at the village government level. Villages can construct a legal framework to provide a legal umbrella for spatial pattern arrangement based on Village Law Number 6 of 2014. [1]

Village Spatial pattern arrangement through Minister of Home Affairs Regulation number 51 of year 2007 concerning Community-Based Rural Area Development (hereinafter referred to as *Permendagri* concerning PKPBM) is a form of government concern in order to encourage economic growth in line with environmental conservation and conservation of natural resources by taking into account the interests of inter-areas and public interests in rural areas and public interests in rural areas in a participatory, productive, and sustainable manner based on community empowerment. Article 8 of the *Permendagri* concerning PKPBM states that in participatory spatial planning, village communities have the right to: [2] a) prepare detailed village spatial plans harmonized with RTRWP and RTRWK/K; b) know the contents of spatial plans and spatial plans outside the village; c) enjoy the benefits of village spatial planning; and d) obtain compensation for the losses suffered as a result of the village spatial planning process.

In Rongrongan Hamlet, Duko Timur Village, the cultivation of herbal chili is very abundant because it is different from other hamlets whose soil characteristics can be planted with rice and the like. The management of Herbal chili in Duko Timur village is still individual because of the community's assumption that when the land is used by the village government, it takes too long to generate side income, and also because many people do not know that the benefits of herbal chili are very much needed for the traditional herbal medicine industry. in particular. [3] Until now, there has been no intervention from the village government in the form of socialization and the like to increase the superior commodity of herbal chili. The purpose of this study was to analyze the approval of spatial pattern arrangement by land owners in Duko Timur Village in order to optimize the commodity and develop the herbal chili industry. To achieve the purpose of this research, the problem that can be raised is, "Does the approval of spatial pattern arrangement for herbal chili plants by the land owner meet the approval criteria within the scope of the terms of the validity of the agreement?"

Way to achieve it. These two elements can explicitly or implicitly be stated in the Vision, Mission, Goals, Targets, Strategies, Policies, Programs, Activities or other activities. Planning has dimensions of space and time, so it requires data and information about past and future phenomena.

In addition, planning is also intended for the benefit of sustainable human development, which is characterized by the socio-cultural performance of the community that is aligned with environmental sustainability.

2. Result and Discuccion

A. The Overview of Duko Timur Village

Pamekasan Regency, has an administrative area of 13 (thirteen) sub-districts and 9 (nine) of the total sub-districts have chili herbal plants. The largest harvested area that has chili herbal plant is Larangan sub-district with an average area of 198 ha. From the results of the Location Quotient (LQ) analysis, there are 2 (two) sub-districts that have an LQ value > 1, namely Larangan (6.89) and Kadur (2.67), which means that the herbal chili plants in the 2 (two) sub-districts are a sector. base and is a leading commodity in the area.[4] With the great potential of herbal chili plants in Ban District, it is hoped that the spatial pattern arrangement process for herbal chili plants in various villages in Larangan District is able to change people's behavior to be innovative and productive so that they can make people independent.

Duko Timur Village is a village located in Larangan District, the potential of plants that are widely planted by the people of East Duko Village include: beans, bananas, tomatoes, rice and chili herbs. Medicinal chili plants are usually planted in fences and community yards whose land is only suitable for planting herbal chilies. Community land that cannot be planted with rice and beans will be planted with chili herbs so that they can be sold to earn income. The characteristics of the land in Duko Timur Village which are dry and rocky are very suitable for planting herbal chilies.

Jamu chili is usually sold dry because the price is expensive, it can reach a price range of 90-100 thousand per kilo, so sometimes people who harvest a little are sold dry. In Rongrongan Hamlet, Duko Timur Village, chili cultivation is very abundant because it is different from other hamlets, where the characteristics of the land can be planted with rice. Many people in Duko Timur Village do not know the benefits of herbal chili which are needed by the traditional herbal medicine industry, so they do not understand its potential.[5] Until now, the management of herbal chili commodities in Duko Timur Village has not received serious attention. In fact, if the existing land is arranged and determined according to the potential of chili herbal commodities which have high economic value, it will help improve the welfare of farmers in Duko Timur Village.

B. Juridical Basis for Spatial Planning Based on Local Potential

Spatial planning needs to be carried out to the smallest area level, namely the village area as an effort to transparency and control the utilization authority carried out by the government above it. Village spatial planning can be regarded as a positive intervention to organize development in the village and improve the quality of the environment and provide a sense of security to the community. The existence of the Village Spatial Plan, no longer makes the Village Government a spectator when there is a use or conversion of land for various strategic developments or other developments that may cause environmental damage. Village spatial planning is considered necessary, this is because in addition to carrying out the mandate of existing laws (Spatial and Village Planning), it is also a means for village communities to develop and build villages according to conditions,

potential, environmental sustainability and village sustainability to maintain local wisdom, which exists. policy references related to spatial planning are sourced from Law Number 26 of 2007 concerning Spatial Planning, besides that it also refers to Law Number 6 of 2014 concerning Villages.

Law No. 6 Year 2014 concerning Villages, states that village spatial planning is part of the village development planning process. Village spatial planning is a new thing, so the procedures for its implementation have not been understood and the village government has not felt the benefits because there is no socialization and guidance on the importance of village spatial planning. So far, village development planning has not been based on space utilization, so it does not explore the potential and existing problems. The implementation of village development is the authority of the village, and the problem of village spatial planning becomes important to be seen as part of the object of regulating and controlling land use whose authority is owned by the Village Government.

The village step to regulate its space for village development references is considered a step forward, where until now there has been no technical regulation from the Ministry of Agrarian Affairs and Spatial Planning related to regulating the map scale at the village level, because the map scale reference only regulates at the national, provincial and district levels. Whereas in the village law number 6 of 2014 concerning Villages, spatial planning is part of the development of rural areas and becomes the full authority of the village and is carried out in a participatory manner. The concepts of democracy, regional autonomy, and community participation are three things that are interrelated and cannot be separated from one another.

The opening of space for public participation in the administration of the state is the basic core of a democratic state. Efforts to strengthen roles & functions: institutions, policies, potentials, and other resources aimed at improving the quality of the implementation of village autonomy are the rights, authorities, and obligations of the village to regulate and manage independently government affairs and the interests of the community in accordance with regulations. [6]

Spatial planning is the authority of the Village Government so that the Village RTRW document can be stipulated in the form of a Village Regulation. This plan needs to be known and agreed upon by the village community or their representatives. The benefits felt by the Village Government who have made the Village RTRW include raising awareness and understanding of the Village Head on the importance of village spatial planning, providing a lot of convenience in preparing village development plans, providing enlightenment to the Village Government regarding what to plan for village development, so that the RPJM The village that is made becomes more synergistic and directed as the government's RTRW above it and it is clearer what development plans will be carried out, and is sustainable even though there is a change of Village Head. The existence of the Village Spatial Plan also provides convenience for the government in developing and developing strategic areas. The village government can also help control the occurrence of land conversion or use land according to its function and the RTRW that has been determined, the quality of the environment will be more maintained.

C. Juridical Construction Approval of Spatial Pattern by Land Owner in Duko East Village

1. Community Participation in the Implementation of The Village Government

Village as a legal community unit has the authority to regulate and manage the interests of its own community in a government administration, meaning that the legal community unit has autonomy. However, the autonomy inherent in the administration of village governance is not autonomy like that of the Provincial, City, and Regency governments, but is autonomy based on origins and customs, whereas according to Article 1 of Law Number 6 of 2014 concerning Villages, "Village Government is the organizer of government affairs and the interests of the local community in the government system of the Unitary State of the Republic of Indonesia. Based on the regulation of the article, the Village Government has two main tasks, namely as follows: organizers of government affairs, and as organizers of the interests and wills of the people in their territory.

The participation of the village community in channeling their aspirations in the formulation of village regulations requires democratic political relations in village governance that are supported by the village head, the Village Consultative Body, and the village community in a village meeting. The village meetings held were used as a medium to discuss and agree on strategic matters. Village law products are formulated democratically so as to create peaceful village resource management to realize social justice. The Village Government together with the BPD are obliged to formulate village regulations based on village strategic decisions that have been set in the Musdes. [7]

Decision-making in the implementation of village government is carried out with two kinds of decisions. *First*, decisions that have a social aspect, which bind the community voluntarily without clear sanctions. *Second*, decisions are made by formal village institutions that are formed to carry out the decision-making function of laws and regulations. The first form of decision is often found in the social life of village communities, where the decision-making process is carried out through a process of mutual consent, by first explaining the reasons for choosing alternatives by village community leaders or people who are considered to have certain authority. Whereas in the second form, decisions are based on mutually agreed procedures such as village development consultations. The decision-making process is carried out by parties who are legally given a function for it, which is then called a village regulation.

Community participation is an important thing in the administration of village government, because the implementation of government based on community participation is expected to have a long-lasting power and effectiveness so that it can solve problems that occur in the community. In a democratic system, the most important thing is how to ensure the widest possible open participation space for every level of society. However, this guarantee is also accompanied by various continuous efforts to encourage the growth of public awareness to be involved in the process of governance. The participation of the village community in channeling their aspirations requires democratic political relations in village governance that are supported by the village head, the Village Consultative Body, and the village community in a village meeting. The village meetings held were used as a medium to discuss and agree on strategic matters.

One of the principles of village governance as regulated in Article 24 is the participatory principle, namely the involvement of the community in the administration of village governance.

The existence of space for the community to participate in managing space is a necessity in a democratic government system that places the community as the holder of sovereignty in the administration of government. This is in accordance with the provisions contained in Article 28 of the 1945 Constitution of the Republic of Indonesia which affirms, "The freedom of association and assembly, expressing thoughts verbally and in writing and so on is stipulated by law.

The most important part in the laws and regulations governing the village in the administration of government affairs in the village is the State's recognition of the rights of the origin of the village (the principle of recognition) and the determination of local-scale authority and local decision-making for the benefit of the village community (the principle of subsidiarity). Based on these two principles, the village in the administration of government has enormous authority to take care of itself. The thing that must be maintained in the administration of village governance is the realization of democratization in rural communities, as expressed by Muhammad Hatta, that the democracy developed is not copying western democracy as a whole, but democracy rooted in the character of indigenous Indonesian people, namely familial democracy based on deliberation. The implementation of participation in the implementation of the village deliberations is guaranteed to a very technical level. This is in accordance with the provisions contained in Article 3 paragraph (3) letter e of the *Permendesa* Number 2 of 2015, which stipulates that "every element of society has the right to receive care and protection from disturbance, threats and pressure during the village meeting".

2. Spatial Planning Agreement in Construction Article 1320 of the Civil Code

An agreement or consensus is the first step for the parties to make an agreement. If the agreement is the initial step of the parties making the agreement, then a problem arises as to when the agreement will occur. There are several theories that state when an agreement occurs. The theories are: a) Wils Theory of will), this theory says that the occurrence of an agreement or consensus is due to a conformity of will of the parties who make the agreement; b) Ultings Theory, this theory states that consensus occurs in accordance with statements that have been uttered or announced by the parties who made the agreement; c) The theory of belief (Vertrouwens Theory), this theory contains/states the existence of a consensus or agreement based on the beliefs and words of the parties that deserve to be expressed in society.

The conditions for the validity of the agreement can be found in the provisions of Article 1320 of the Civil Code which reads: For the validity of an agreement. Four conditions are needed: 1) the agreement of those who bind the agreement, 2) the ability to make an engagement, 3) a certain subject matter, 4) A cause that is not prohibited

So the conditions for a valid agreement include:

1. Subjective conditions:
 - a. According to the provisions stipulated in the Civil Code, it is said that basically a free agreement is considered to occur when the agreement is made by the parties unless it can be proven that the agreement occurred due to an error, coercion or fraud, as stipulated in Article 1321 of the Civil Code which reads: "No agreement has any power if it is given by mistake or obtained by coercion or fraud".
 - b. This free agreement between the parties in principle is the embodiment of the principle of consensuality where basically an agreement made orally between two or more people is binding and therefore has given birth to obligations for one or more parties to the agreement, as soon

as the parties reach an agreement. Although the agreement has been reached verbally only. So that the principle of consensuality is a principle which states that agreements are generally not held formally, but are sufficient with the agreement of both parties. An agreement is a conformity between the will and the statement made by both parties. The ability to act The ability to act in law is a second subjective requirement for the formation of a valid agreement between the parties. Both parties must be legally competent to act on their own, there are several groups of people by law declared "incompetent" to carry out their own actions. Legal action, they are minors. Persons under supervision and married women (Article 1330 of the Civil Code). Matters relating to skills and power and authority to act in the context of acts for the personal benefit of individuals are regulated in Article 1329 to Article 1331 of the Civil Code. Article 1329 of the Civil Code states that "every person is capable of making engagements, if by law it is not declared incompetent

2. Objective Requirements:

a. About certain things in the agreement.

Regulated in Article 1332 to Article 1334 of the Civil Code, the Civil Code explains the purpose of certain things, by providing a formulation in Article 1333 of the Civil Code, which reads as follows: "An agreement must have as the subject of the agreement an object whose type is at least determined not to be the obstacle is that the amount of the object is not certain, provided that the amount can then be determined or calculated. A certain thing in the agreement is that the goods that are the object of this agreement must be certain, at least the type must be determined, while the amount is not determined as long as it can then be determined or calculated. The formulation of the "principal agreement in the form of goods has determined the type" The Civil Code emphasizes the engagement to give or deliver, something that whatever the type of engagement, whether an engagement to give something, to do something or not to do something, the Civil Code explains, that all types of The bond must involve the existence or existence of a certain object.

b. Regarding lawful causes, what is lawful is regulated in Article 1335 to Article 1337 of the Civil Code, Article 1335 of the Civil Code states that "An agreement without a cause or which has been made for a false or prohibited cause has no power". does not use a causal cause or is made with a false or forbidden cause clause that has no power, from what has been explained above that there is almost no agreement that does not have a causal cause. Article 1336 of the Civil Code, states that: "If a cause is not stated, but there is a cause that is not prohibited, or if there is a cause other than that stated. The agreement is valid, meaning that basically the law never questions what is the reason or basis for the form of a certain agreement that exists between the parties. Article 1337 of the Civil Code states that: "A cause is prohibited, if it is prohibited by law or if it is contrary to good decency or public order.

Efforts to understand and form an agreement between the parties must meet the conditions for a valid agreement based on Article 1320 of the Civil Code, namely subjective requirements: there is an agreement to bind themselves and the skills of the parties to make an engagement, while the objective requirements are a certain thing and a lawful cause. Therefore, in carrying out legal actions to make a contract/agreement, one must also understand the principles that apply in the basis of a contract/agreement, including: the principle of freedom of contract, the principle of consensualism, the principle of legal certainty/pacta sunt servanda, the principle of good faith and the principle of personality.

In Law Number 6 of 2014 concerning Villages in Article 54, it is explained that village deliberations are a deliberation forum participated by the Village Consultative Body (BPD), the Village Government, and elements of the village community which aim to discuss strategic matters in the administration of the Village Government. . In relation to village government administrators and mobilizing the community to participate in village physical development and village administration, every decision taken must be based on village deliberations to reach a joint decision.

In Law Number 6 Year 2014 Article 61 paragraph 2 BPD is an institution that embodies democracy in the administration of village government which functions to accommodate and channel community aspirations, accommodate community aspirations. agree on the Draft Village Regulation. The BPD has a joint task with the village head to plan and establish policies in implementing village governance and development. The BPD is also a community representative in this case can participate in supervising the implementation of development and village governance. In addition, the BPD is also obliged to facilitate the implementation of the duties of the village head. The BPD and the village head need to improve coordination implementation in order to realize good cooperation in the development process in the village.

The community in Duko Timur Village who will give approval for the use of their land for herbal chili commodities in accordance with the mechanism regulated in the Village Law is through the Village Deliberation (Musdes). The authority given to the BPD is an attributive authority because it is given by law. The results of the community agreement in the village deliberation forum will be represented by the BPD to gain legitimacy in the form of village legal products. Thus, it is the BPD that gets power from the community after a joint decision is made in the village deliberation forum.

The concept of granting power is known in the normative framework of the power of attorney (*lastgeving*) agreement which is regulated in Article 1792 to Article 1819 in the title XVI Book III of the Civil Code (BW). In society, in addition, the granting of power of attorney is a very basic and important act in the process of legal and non-legal relations, in the event that a person wishes to be represented by another person to become his proxy, in order to carry out everything that is in the interests of the person giving the power of attorney, in all matters. , including in relationships with other parties other than their proxies. The provisions of the article, in the power of attorney agreement there are two parties, namely: 1) the power of attorney; 2) The power of attorney or abbreviated as power of attorney, who is given an order or mandate to do something for and on behalf of the power of attorney. If judged based on Article 1230 of the Civil Code, the community's approval for the spatial pattern arrangement based on the local potential of herbal chilies represented by the BPD has met the conditions of agreement and competence. The agreement is marked when a joint decision has been made in the village deliberation forum. The BPD, in order to represent the Duko Timur community, has met the qualification requirements because it has the right to attributive authority from the Village Law. Certain agreed objects are community-owned lands whose size and amount can be determined. The approval of the people of Duko Timur Village through representatives of the BPD is a mandate of the Village Law to determine the planned land use in a Village Spatial Plan regulated by Village Regulations.

3. CONCLUSION

Village government can plan spatial patterns based on local potential. With the approval of the community as the land owner, the Duko Timur Village Government can form a village regulation on Village Spatial Planning. The mechanism for community approval can be carried out in village deliberations. The results of the agreement will be brought by the Village Consultative Body (BPD) in the process of forming village regulations. Therepresentation of the community through the BPD is sourced from the granting of power to the community through village deliberations that have complied with Article 1320 of the Civil Code, namely the conditions for the validity of the agreement.

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