

## LEGAL PROBLEMS FOR KAMPUNG SUSUN HOUSING SERVICES, JAKARTA

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### Abstract

Kampung Susun (bunk village) is a new concept in the effort to provide livable housing for people affected by government programs and affordable for those with low incomes. During its development, the bunk village in Jakarta encountered several constraints. The imposition of a rent rate for Kampung Susun Bayam which is much higher than others delays residents from being able to occupy the housing units that have been promised by the previous governor. Based on an analysis with a regulatory and conceptual approach, the development of the bunk village in Jakarta has legitimacy problems. Several elements and requirements for the validity of provincial government action are not met. The blurring of the flat village concept with flats in general and the legal basis absence for the development of the bunk village has also resulted in confusion about the suitability of imposing retribution in the service of the bunk village.

**Keywords:** House, Legitimate, Village

### INTRODUCTION

Kampung Susun (bunk village) in general has the same definition as flats (rusun), which are high-rise buildings in a neighborhood, which are divided into several parts and functional structures, both horizontally and vertically, as well as units that can be owned and used separately for residential premises equipped with common parts, common objects, and common land. Rusun aims to meet the needs of decent housing for low-income people by utilizing urban space effectively and efficiently. Flats are divided into several categories: general flats for low-income people, special flats to meet special needs, state flats for housing and supporting the implementation of official and/or civil servant duties, and profit-oriented commercial flats.

However, flats intended for the community on a wide scale are not yet familiar in the residential culture of Indonesian society. Flats have not been able to accommodate the activities of residents who have their own lifestyles and cultures. The function in each part of the flat has not run as expected. Therefore, the functional aspect is prioritized, where the planning and design of spaces is a manifestation of the activity container and must be adjusted to the lifestyle of prospective residents while still paying attention to other design factors such as appearance and environmental results. The theme of bunk villages aims to spread and integrate with existing settlements, while flats stand alone and separate from settlements. The concept of bunk villages was chosen so that the interaction between residents and the atmosphere in the dwelling is more fluid and blends into each other. The concept of bunk villages is none other than making flats that are aligned with the atmosphere and conditions of the village that can make residents feel like living in the village. Bunk village has also

become a symbol of the anti-eviction campaign, a collective action with a bargaining position in public housing policy related to poor urban villages.

The cosmopolitan DKI Jakarta and also the capital city of the country has adopted the concept of bunk villages in the last five years. Currently, there are four bunk villages standing in Jakarta, namely Kampung Susun Aquarium, Kampung Susun Kunir, Kampung Susun Productively Tumbuh Cakung, and Kampung Susun Bayam. Previously, DKI Jakarta also had Kampung Deret Petogogan. If the rowing village only consists of two floors, then the average bunk village consists of five floors. Bunk villages in Jakarta are generally built for eviction victims, while Kampung Deret Petogogan is a program to improve the physical of residential houses, improve environmental infrastructure, and improve the social aspects of the community where the environment of Kampung Deret Petogogan becomes more organized and the quality of the environment becomes better.

In its development, the stacking village policy encountered obstacles and caused the noise. Some residents had rallied at Jakarta City Hall in early December. Residents who were victims of eviction for the construction of the Jakarta International Stadium (JIS), objected to the rental rates charged. Previously, P.T. Jakarta Propertindo (Jakpro) charged the rental rate of Kampung Susun Bayam around Rp1,500,000 per month for type 36 housing units, then the Regional Owned Enterprise (BUMD) lowered it by referring to DKI Jakarta Governor Regulation Number 55 of 2018 concerning Adjustment of Housing Service Levy Rates, to Rp756,000 for the same room type. Even though it has been lowered, the rental rate is still considered too large for residents who hope to be equated with the prevailing rental rate in Kampung Susun Aquarium, which is around Rp200,000. Residents also hope that the management of Kampung Susun Bayam is managed through a community cooperative. Not stopping there, residents also brought up the previous promise of the Governor of DKI Jakarta, which in his inauguration speech on October 12, 2022, stated that residents could immediately occupy bunk villages and could continue their vegetable farming business in Spinach Stacking Village. In response to this, Jakpro and the Acting Governor of DKI Jakarta seemed to throw responsibility at each other. On several occasions, Jakpro representatives said that they would hand over the Kampung Susun Bayam building complex to the provincial government in the near future, considering the completion of tasks that only include construction. However, the acting governor handed over the matter to be resolved by Jakpro. The acting governor requested that Jakpro and residents again discuss the rental rate because the provincial government has carried out the process of issuing a decree for residents to occupy.

Such a situation indirectly reflects the low quality of housing services in the national capital, which does not seem to favor small communities. Service as one of the main functions of the existence of government may be the main concern in order to realize good government. As one of the general principles of good government, good service is a principle that requires the government to always provide services on time, clear procedures and costs, and conformity with service standards, laws, and regulations.

## RESEARCH METHODS

This type of research uses normative legal research, which is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced that produce arguments, theories, and new concepts as descriptions in solving the problems faced. According to the field, based on the problems on the subject matter in this study, the research to be carried out uses a statutory approach and a conceptual approach. Thus, it is expected that there will be a simple study related to the validity of the development of bunk villages and the suitability of levy rates for the housing services of bunk villages. Data collection techniques in research are carried out by means of literature studies, namely a study by examining literature that is in accordance with the problem as a theoretical basis to be used as an analytical knife in discussion

## DISCUSSION

### 1. Legitimacy of Jakarta Bunk Village Development

According to the Great Dictionary of Indonesian, validity is everything that has a legitimate nature or legitimacy. The word legitimate or legitimacy itself is something that is done according to law, be it applicable laws or regulations, something that is recognized as true by official parties, and something that is reliable, undoubted, genuine, and authentic. Validity in Dutch legal terms is called *rechtmatig* and in English is called legality or lawfulness, which means based on or in accordance with the law. Validity is born from the conception of the legal state or *rechtsstaat*, which is an act of government that must be based on the provisions of the governing law or also called *rechtmatig van het bestuur*.

Van der Pot states that a government decision can be valid if it meets four conditions, namely:

- a. decisions are made by the organ that is authorized to make them;
- b. a decision which is a declaration of will (*wilsverklaring*), should not contain juridical deficiencies (*geen juridisch gebreken in de wilsvorming*);
- c. the decision must be stipulated in the regulations so that it can be the basis of action and in accordance with the procedures that have been expressly regulated in the basic regulations;
- d. The content and purpose of the decision must correspond to the content and purpose of its basic regulations.

The decision here is part of an administrative legal act which is a statement of will arising from an administrative organ in special circumstances, intended to cause legal consequences in the field of state administration, which can give birth to legal consequences or have relevance to the law in the form of the creation of new legal relations, changes or termination of existing legal relations (*het scheppen van nieuwe, het wijzigen of het opheffen van een bestaande rechtsverhouding*). Based on Van der Pot's opinion above, the validity of the development of bunk villages by the DKI Jakarta Provincial Government can be studied as follows:

### **a. Authority of the Organ That Makes**

According to Ridwan H.R., the main pillar of the rule of law is the principle of legality so that the source of government authority comes from laws and regulations, which are obtained through three ways, namely attribution, delegation, and mandate. As an authority derived from the Constitution of the Republic of Indonesia Year 1945 and laws (Law), the authority of attribution of the provincial government in the development of bunk villages must be sourced from Law Number 23 of 2014 concerning the Regional Government. However, the law does not recognize the term flats or flats. According to the Local Government Law, the provincial government's authority related to housing is the provision and rehabilitation of houses for disaster victims, as well as the facilitation of providing houses for people affected by relocation related to the provincial government program. If the relocation in question is a transfer due to eviction because the land will be used for the provincial government program, then the allocation of bunk villages for eviction victims can be said to be in accordance with its obligations. However, the question is, does Kampung Susun Aquarium include relocation? Given that the location is in the same place as the land that has been evicted before. This is also the same as Kampung Susun Bayam.

The provincial government has other authorities related to residential areas, namely the arrangement and improvement of the quality of slum areas with an area of 10 Ha to under 15 Ha. This authority is more likely to take the form of rearranging a settlement, rather than carrying out evictions and displacements. The rearrangement aims to improve the quality of life and the environment, in terms of cleanliness and health around previously slum settlements. The development of Petogogan Row Village is one example of the implementation of the authority to rearrange settlements.

### **b. Has No Juridical Flaws**

The juridical deficiency in question is, that a will on the decision, must not contain elements of dwang (coercion), dwaling (error), and bedrog (fraud). The construction of bunk villages does not contain elements of coercion for the community, in fact, the policy is welcomed by the community, especially residents of eviction victims. However, if it returns to the term relocation, it is necessary to re-investigate whether there are elements of error or non-compliance with applicable regulations.

In the context of housing and settlement, relocation is the transfer of a settlement location to a new settlement location, because the old location is prone to disaster or illegal land status. In addition, based on applicable local regulations, residential areas located on riverbanks, reservoirs, and situ, as well as those that interfere with water management systems must be arranged and/or relocated. The development of bunk villages in the same location as the eviction site is not only contrary to the definition of the relocation itself but also contrary to the regional spatial plan. However, in its development, the provincial government together with the DKI Jakarta DPRD actually revised the regional spatial regulations. The provincial government can be said to have placed the safety of residents around the bunk village and all residents of Jakarta is no longer a priority, because the land that was evicted and originally

intended for the installation of dikes to prevent tidal flooding, actually returned to the settlement. Almost the same thing happened to Kampung Susun Bayam. Although not included in the disaster-prone area, the eviction intended for the construction of the JIS complex was actually reused for settlements that could accommodate some of the eviction victims. Actions that start from the good intentions of the provincial government actually obscure the concept or meaning of the relocation itself. The construction of bunk villages in the same location of land as the location of the eviction land also shows its closeness to the concept of home improvement assistance in the series village rather than the relocation itself.

The element of deception is a condition in which a person deliberately with his will and knowledge causes heresy in others. Fraud can occur because of deliberately concealing a fact, providing misinformation, or using other deceptions. Fallacy and deception are closely related, but also have a clear difference in the element of unlawful acts of the deceitful party, while the fallacy is not apparent. As the head of government in the region, and based on the principle of openness, a governor in his factual actions at the inauguration of a bunk village, should clearly convey all the information that citizens have the right to know. If the governor had objectively informed the mechanism for occupying a housing unit from the beginning, as well as the amount and procedure for paying rent, the current uproar might not have occurred.

### **c. Decisions Must Be Stipulated in Regulations**

A government's will in the form of a decision should be set forth in the regulation. The pouring makes a decision that has a strong legal basis, becoming a legitimacy for the government action to be implemented. With regulations, government actions become legitimate along with their rights and authorities, as well as their obligations and responsibilities. However, until now there has been no regional regulation or regional head that specifically regulates the bunk villages. According to an official of the DKI Jakarta Provincial Public Housing and Settlement Office, bunk villages have the same concept as simple flats regulated in DKI Jakarta Governor Regulation Number 27 of 2009 concerning the Construction of Simple Flats. Based on this statement, it can be seen that all construction actions and the imposition of rental rates by the provincial government only refer to simple apartment concepts and regulations. Unlike bunk villages, the implementation of the series village assistance program is actually regulated in several legal products, namely:

1. DKI Jakarta Governor Regulation Number 55 of 2013 concerning Procedures for Proposing, Evaluation, Budgeting, Implementation, Administration, Accountability, Reporting, and Monitoring of Grants, Social Assistance, and Financial Assistance Sourced from Regional Revenue and Expenditure Budgets;
2. DKI Jakarta Governor Regulation Number 64 of 2013 concerning House Repair Assistance in Slums through Village Planning; and
3. Decree of the Governor of DKI Jakarta Number 1592 of 2013 concerning the Determination of the List of Social Assistance Recipients for House Improvement in Slums through Village Planning for Fiscal Year 2013.

#### **d. Conformity of the Content and Purpose of the Decision with the Basic Rules**

According to Philipus M. Hadjon, the government in exercising power is limited by the substance which is always related to the question of "what" and "for what". What is meant by the question of "what" matters related to the existence of arbitrary actions (*willekeur*) by the government which can be measured by looking at the content regulated in a decision? Meanwhile, the question "for what" is closely related to the act of abuse of authority (*detournement de pouvoir*) which can be measured by looking at the goals that a decision is trying to achieve. Therefore, if in a government action, there is an arbitrary act or an act of arbitrary abuse, then the government action is a substantially flawed act.

The provincial government's statement that equates the concept of bunk villages with simple flats regulated in DKI Jakarta Governor Regulation Number 27 of 2009 concerning the Construction of Simple Flats needs to be examined again. Considering some writings in the field of architecture and civil engineering, the concept of bunk villages seems different. Bunk villages are expected to provide more space for community activities so that they blend and interact with each other. Design or design in bunk villages considers the behavior of families and communities. Each floor is designed so that in addition to having family privacy space in the housing unit, there is also a room for interaction with residents in front of the house by adding a little width of the hallway or hallway. Each floor also has a communal space that is almost the same size as a housing unit, which can be used by residents to hold a non-formal event on a small scale.

Design or design for the community on each floor that is not regulated in the governor's regulation or other laws and regulations related to the return. The governor's regulation and other laws and regulations only regulate privacy space, public facilities, and social facilities located in the courtyard, separate from the building. Thus, from the technical aspect of the building, the concept of bunk villages that prioritize community interaction space has actually not been accommodated in laws and regulations, or in other words, the provincial government actually does not have the authority in the construction of bunk camps.

As already mentioned, the four bunk villages are intended for eviction victims. Therefore, it is also necessary to see its suitability for the purpose of building simple flats in laws and regulations. Simple flats in Jakarta are basically intended for lower-middle-income people. This is in line with Law Number 20 of 2011 concerning Flats. However, there is one simple flat development pattern that also aims to rejuvenate the environment through thorough demolition in order to renew the physical structure and function. According to Danisworo, the rejuvenation of an environment can be carried out in several actions, namely redevelopment, gentrification or improvement of the quality of building structures, rehabilitation of buildings or urban areas, conservation or maintenance of objects having historical significance, conservation of areas with certain cultures and traditions, and resettlement. The last action, namely resettlement, is the transfer of residents from a settlement location that is no longer in accordance with its designation, to a new location that has been prepared in accordance with the city settlement plan. If referring to Danisworo's opinion, then *Kampung Susun Kunir* and *Kampung Susun Productively Tumbuh Cakung* are types of resettlement, while *Kampung*

Susun Aquarium and Kampung Susun Bayam can be categorized as types of redevelopment. Given that the two questions "what" and "for what" above cumulative, if not are only one element is affected, it can be said that the decision to build the bunk village has been substantially flawed.

## **2. Suitability of Kampung Susun Levy Rates**

The amount of Kampung Susun Bayam rental rates that will be charged by Jakpro refers to DKI Jakarta Governor Regulation Number 55 of 2018 concerning Adjustment of Housing Service Levy Rates. However, before looking further at the suitability of these references, it is necessary to understand together what is meant by housing services, because these types of services are not recognized in Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments, either as retribution for general services, business services, or certain licensing levies.

Every service provided by the service provider will always affect the level of satisfaction of the people served. According to Varady and Carrozza, qualitative satisfaction when living in flats is measured by how well the flats occupied have met the expectations of respondents or residents, while satisfaction is quantitatively measured from the conditions of meeting several factors desired by residents. These factors can come from external, internal, or a combination of both. Residents of flats have a high level of satisfaction if the flats are equipped with various characteristics of quality flats, such as good building quality, complete and maintained facilities and infrastructure, and the establishment of good communication between residents and the management body. Thus, what is meant by housing services, in this case, can be in the form of, among others, rental rates, quality of services by the management agency, quality of buildings, completeness of infrastructure and facilities, management of flats by management, and quality of location.

Of the forms of flat housing services, the type of building quality services, as well as the completeness of infrastructure and facilities have been included in the calculation of rental rates or one package and regulated in the governor's regulation above. As for the types of flat management services and management agency services, there are management fees for operational, maintenance, and maintenance of rusunawa paid by residents in the form of Environmental Management Fees to the management body appointed by the Sarusun Owners and Residents Association (PPPSRS).

Furthermore, the governor's regulation only stipulates the number of rental rates for several rental flats (rusunawa), namely Rusunawa Sukapura, Rusunawa Penjaringan, Rusunawa Tambora, Rusunawa Cipinang Muara, Rusunawa Pulo Jahe, Rusunawa Tipar Cakung, Rusunawa Pondok Bambu, Rusunawa Jatirawasari, Rusunawa Karang Anyar, Rusunawa Marunda, Rusunawa Muara Kapuk, Rusunawa Cakung Barat, Rusunawa Pirus Elok, and Rusunawa Pulo Gebang. In the appendix, there is also the number of tariffs that are generally applied to rusunawa that have not been specifically determined as mentioned. Given that the rental rate in the governor's regulation is only intended for rusunawa, it is not appropriate if it is also used for bunk villages. The concept of bunk villages, which have different building

characters and techniques from rusunawa, can affect changes in the types of services, the number of rental rates, and IPL that must be paid by residents of rusunawa in general. In addition, there are differences in management and management bodies in the form of cooperatives in several bunk villages that have been established before. Although rusunawa management bodies, PPPSRS, and cooperatives are both legal entities, they have different legal bases, working mechanisms, and goal orientations. The duties and functions of the managing body and PPPSRS that are indeed focused on operational services and maintenance of rusunawa cannot be carried out properly if run by a profit-oriented cooperative, not just services. In addition, what type of cooperative is more suitable to replace the role of the management body, whether it is a consumer cooperative that carries out activities in the context of providing goods or services for the needs of members or a service cooperative whose identity members can be as owners, consumers, and/or producers of services, so it needs to be studied further.

Then, the amount of rental rates between one bunk village and another also varies. Rental rates for Kampung Susun Aquarium and Kampung Susun Kunir range from Rp35,000-Rp40,000. While Kampung Susun Bayam is still in the negotiation stage at a price of Rp756,000. The number of rental rates between different bunk villages may be caused by various factors, including building area, number of unit capacity, and completeness of facilities, strategic location, and owners of land and building assets. The provincial government, especially the governor, should pay attention to these other factors and facts before making a development decision. The provincial government has known the low socio-economic level of spinach villagers, but Jakpro continues to build bunk villages with various complete facilities and specifications, without calculating the costs and benefits in advance and creating healthy regional financial management. The provincial government also handed over the development and management of bunk villages to Jakpro as a BUMD which in general is profit-oriented. It also unknown the form of agreement that occurred between the provincial government and Jakpro before the Kampung Susun Bayam development project was implemented, so now it seems that there is a mutual throwing of responsibility. By not paying attention to other factors and facts, the provincial government can also be said to be less careful or not adhere to the principle of prudence in good governance. In addition, if indeed after going through calculations, the amount of the net rental rate of the bunk village is Rp35,000-Rp40,000, then the rental rate can be considered to be abolished and services can be provided free of charge, considering the potential revenue for the provincial government which is relatively small and/or the development of the bunk village is indeed in the context of implementing national/regional policies. The decision to withdraw the levy after building bunk villages as an alternative policy to help eviction victims, most of whom belong to low-income communities, seems unethical.

## CONCLUSION

The construction of bunk villages for eviction victims in DKI Jakarta is in accordance with its authority, but in the blurring of the concept of relocation and the difference in concept with rental flats, the implementation of the development actually has no legal basis and is not in



accordance with the regional spatial plan. The concept of bunk villages, which provides more interaction space for the resident community and the use of community cooperatives as managers and administrators, will affect changes in the form and type of existing housing services, so it is not appropriate to be charged the same levy rate as rental flats.

## SUGGESTION

The development of bunk villages for eviction victims in DKI Jakarta must be based on the concept of relocation and the correct characteristics of bunk villages, which provide more space for the interaction of the resident community. The implementation of the construction of bunk villages must also have a good legal basis readiness and maintain the consistency of the regional spatial plan that has been determined for residents' safety, which should be a priority. In addition, there needs to be further discussion on calculating the rental levy rate which is expected to be cheaper than that imposed on rusunawa. If the rental rates obtained are very cheap, and the potential for regional revenue is relatively small, then in the framework of certain regional policies, housing services for bunk villages should be provided free of charge.

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