
INDONESIA RAILWAY ROAD ASSETS OF THE UNITARY STATE OF THE REPUBLIC OF INDONESIA

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Abstract

Railway is a State Property Asset / Property owned by Republic of Indonesia which is used for public facilities in the field of highways specifically for the course of railways consisting of several elongated carriages, carrying rail passengers, to travel from districts / cities or provincial regions to other districts / provinces within the Territory of Republic of Indonesia. Train passengers use public transport services, there are passengers who work as Civil Officers of the State (ASN), Indonesian National Army (TNI), Police of the Republic of Indonesia (POLRI), to go to their respective offices, and there are also passengers who work in Private Factories or work in State-Owned Enterprises (SOEs) there are Traders, there are Farmers, Students/ Students, tourists and others. The problem of this research is, railway, land under railway and land around the left right of railway and buildings that stand in every railway station, is the State Asset of The Unitary State of the Republic of Indonesia.

Key words:

Railway Road in Indonesia, Assets the Republic of Indonesia

I. Introduction

Public transport of railways can reduce congestion on the highway, and for Rail passengers it is very advantageous, because it will not go the wrong way and always arrive on time, from where the Train Station arrives. Construction of railways in Indonesia began on June 17, 1864, the installation of the First Railway in Semarang Central Java, the Railway Development Project was carried out by Nederlands Indische Spoorweg Maatschappij (NISM), inaugurated by Governor General Sloet Van Beele of the Netherlands. The Government of the Dutch East Indies in 1871, established a commission in charge, studying whether or not to set up cadastral / land measurements en masse in Indonesia.

Thus, the kadaster in Indonesia must be radically implemented, and adapted to the Kadaster held with Cadastral in the Netherlands, for the arrangement of the cadastral must start from Jakarta, and then followed by other regional regions, the proposal was approved and ratified by the Dutch Government in 1874, by JB. Henddink, a Cadastral measuring member from the Netherlands (Soerodjo, 2003)

During the Japanese Occupation of Indonesia on March 01, 1942, the railway in Java island was controlled by the Japanese Land Angaktan, known by the name, Rikuyun

All railway companies on the Island of Java by the Japanese are united into one name, Rikuyu Kyoku. For the Railway on Sumatra Island was named Tetsudo Tai, centered on Bukit Tinggi, under the control of the Japanese Navy known as Kaigun. in the State, which is in a state of emergency, concerning State Power and Political participation, for the decision-making of a State, is limited to the Rulers, especially military officers and high-ranking (Jackson & Pye, 1978).

Indonesia gained independence on August 17, 1945, The Indonesian Railway since September 28, 1945 was named Djawatan Kereta Api Republik Indonesia (DKARI) based in Bandung, covering railway companies in Java and Madura (Maya DM, 2018). It was referred to as the Birthday of djawatan Kereta Republik Indonesia (DKARI) (Maya DM, 2018). That in 1950 DKARI changed its name to Djawatan Kereta Api (DKA).

Government Regulation Number: 22 year 1963 on Indonesian Railways starting from May 22, 1963 Djawatan Kereta Api (DKA) changed name to Perusahaan Negara Kereta Api (PNKA).

That in 1957 the Railway Company on the island of Sumatra was nationalized by the Government of Indonesia, and in 1963 joined the Perusahaan Negara Kereta Api (PNKA).

Based on The Government Regulation of the Republic of Indonesia Number: 01 of 1971 on Railways, The Status of Indonesian Railways from the name of Perusahaan Negara Kereta Api (PNKA) changed its name to Perusahaan Jawatan Kereta Api (PJKA).

Government Regulation No. 57 of 1990, Perusahaan Jawatan Kereta Api (PJKA), from January 01, 1991 changed its name to Perusahaan Umum Kereta Api (PERUMKA) (Aslikah, 1997).

Based on Law No. 13 of 1992 on Railways, for Apian Railway Regulations issued by the Dutch colonials, declared no longer valid.

Government Regulation of the Republic of Indonesia Number: 19 year 1998 on The Transfer of The Form of Public Business Agency, Perkereta Apian Indonesia, Perusahaan Umum Kereta Api (PERUMKA), changed the name to PT. Kereta Api Indonesia (Persero).

II. Discussion

former Ex of Dutch Colonial heritage in the field of transportation when the Dutch colonized in Indonesia there are several relics to become State Assets / State Property of Indonesia, which since Indonesia on August 17, 1945, controlled and used by Republik of Indonesia (NKRI), because it contains the following legal elements :

- A. The legal relationship between the State and the land
- B. Indigenous peoples with their land
- C. Individual legal relationship with the land.

Three point of Republik Indonesia to govern it is an inseparable entity and is a relationship of the "Trinity" for the benefit of the country (Harsono, 1968).

The former dutch colonial relics include:

1. Railways And Buildings At Each Railway Station

The control and ownership of the Republic of Indonesia on railways and buildings in every railway station is in Indonesia, based on: Prp/032/ Peperpu /1958 Jo. Presidential Decree No. 2 of 1962, Jo. Presidential Decree /Commander-in-Chief of ABRI /Great Leader of the Revolution Number T-0403/G-5/5/66 and Law No. 23 of 1959 on The State of Danger.

Djawatan Kereta Api Republik Indonesia (DKARI), now the name of PT. Kereta Api (Persero), allowed formil by Law of the Republic of Indonesia No. 23 of 1959 on the State of Danger, to use, manage the Railways and buildings in every Railway Station, including the land under the Railway, the land on the left right side of the Railway, because it is a State Asset / Property of the Republic of Indonesia.

Similar Laws and Regulations of the Republic of Indonesia, which govern state assets / state property are:

1. President of the Republic of Indonesia Instruction No. 3 of 1971 on Inventory of goods Country/wealth.

In numbers 1 number 2 and number 3 confirm that, All goods move or do not move – Government Inventory such as,
Motor vehicles, State finances, Defense equipment, government buildings, government offices, educational infrastructure, transportation equipment, air and sea, including aircraft, ships and others, which are assets of state wealth, must be recorded in the State Wealth Inventory.

To carry out the order of the Law - Presidential Instruction Law of the Republic of Indonesia Number: 3 year 1971 on Inventory of goods belonging to the State/wealth of the Country, that began on September 28, 1945 Djawatan Kereta Api Republik Indonesia (DKARI), have recorded inventory / state-owned goods that are the responsibility and management, so as not to occur the loss of State Assets / Property of the Unitary State of the Republic of Indonesia.

2. Decree of the Minister of Finance of the Republic of Indonesia Number: 653/ KMK.011/1986 on general guidelines of procedure Elimination of State Property/Property.

In Figure 1.4.1 letter a, confirms that the Property/property of the State is all property derived/purchased with funds sourced for the entire
or a portion of the State Budget or funds outside the state budget controlled under the control of the Department. Departments, State Agencies, Non-Departmental Government Agencies, and Union units in their environment, both inside and outside the Country, do not include the wealth of a segregated State.

3. Decree of the Minister of Finance of the Republic of Indonesia Number : 350/KMK.03/1994 on The Procedure for Exchanging Goods belonging to The National Wealth (BMKN)

Article 1 affirming State Property /State Property (BM/KN) is a mobile/non-moving Goods owned/controlled by Government Agencies that are partially or entirely purchased at the expense of the State Budget and from other legitimate, unspoced state-owned enterprises (managed by state-owned enterprises) and the wealth of local governments.

4. Government Regulation Number: 38 Year 2008 on Changes to Government Regulation Number: 6 Year 2006 on The Management of State/Local Property.

Article 2 paragraph (1) specifies that, State/Local Property includes:

- a) Goods purchased or obtained at the expense of the State/Local Revenue Budget (State Budget/D) or.
- b) Goods derived from other legitimate acquisitions.

The following in Article 2 paragraph (2) confirms that, the Goods as referred to in paragraph 1 letter b, include:

- 1) Goods obtained from grants/donations or clearly
- 2) Goods obtained as an implementation of the agreement/contract.
- 3) Goods obtained in accordance with the laws and regulations
- 4) Goods obtained based on court rulings that have the force of permanent law.

Thus Djawatan Kereta Api Republik Indonesia (DKARI) / Djawatan Kereta Api (DKA) / Perusahaan Negara Kereta Api (PNKA) / Perusahaan Djawatan Kereta Api (PJKA) / Perusahaan Umum Kereta Api (PERUMKA) / Perseroan Terbatas Kereta Api (PT. Kereta Api - Persero Indonesia), justified by the Laws and Regulations of the Republic of Indonesia, Prp/032/ Peperpu /1958 Jo. Presidential Decree No. 2/1962, Jo. Presidential Decree /Commander-in-Chief of ABRI /Great Leader of the Revolution Number T-0403/G-5/5/66 and Law No. 23 of 1959 on The State of Danger, to control, use, manage railways, buildings in every railway station, land under railways or land on the right left of the Railway, because it is a State Asset/State Property and has been recorded in the National Wealth Inventory Inventory Number / State Property of the Unitary State of the Republic of Indonesia (WIJAKSONO & NPM, n.d.).

2. Land Under the Railway and Around the Railway

The control of the Unitary State of the Republic of Indonesia is the control of the land under the Railway and the land that is around the left right of the Railway, is the obligation of the State to secure, save as State Assets / State Property, for the welfare of its people

State control over the land under the Railway and the land around the left right of the Railway, is a complete grammatical mastery is a noun, which means the process, the way of action, to be mastered by the State,

The word mastery is more actively moving than mastering silence (passive) can also be interpreted as having power (power) or authority (authority) to regulate, use, supervise and manage (Hennry Campbell Black, 1988).

State Assets in the form of land that is the responsibility of Djawatan Kereta Api Republik Indonesia (DKARI) / Djawatan Kereta Api (DKA) / Perusahaan Negara Kereta Api (PNKA) / Perusahaan Djawatan Kereta Api (PJKA) / Perusahaan Umum Kereta Api (PERUMKA) / Perseroan Terbatas Kereta Api (PT. Kereta Api - Persero Indonesia), can be considered to be on behalf of the Right of Use of the Ministry of Transportation of the Republic of Indonesia or the Certificate of Property of pjka, because the Certificate of land rights is a proof of rights, which applies as a proof of prooft (Indonesia, 1980).

That based on the Constitution of the Unitary State of the Republic of Indonesia in 1945 (Constitution 1945) Article 33 Paragraph (3), determines that:

The earth and water and the natural wealth contained therein are controlled by the State and used for a great amount of people's prosperity.

Thus in accordance with the Constitution of the Republic of Indonesia in 1945 above is the land under the Railway and on the left side around the Railway is the State Asset / State Property of the Unitary State of the Republic of Indonesia, which is used for a great amount of prosperity of the people.

Regarding the State's relationship with the land, R. Soepomo, once delivered a disseminated hearing Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia (BPUPKI) 31 Mey 1945, among which states:

As well as about the land in fact the State collects the land entirely, the mines that are important to the State will be taken care of by the State Itself (Suyadi, 2007).

Related to State-Owned Goods known since 1971 is the publication of the Persiden Instruction of the Republic of Indonesia No. 3 of 1971 on The Inventory of State-Owned Goods/The Wealth of the Unitary State of the Republic of Indonesia, determining that :

Instruct ministers, leaders of state institutions, leaders of non-departmental institutions to: Doing and responsible is for the implementation of physical inventory and preparation of Inventory List of state-owned goods/ State Wealth contained in the environment of their respective Agencies – each within the Country or abroad, originating / purchased with funds sourced for the whole or part of the State budget with the following provisions:

The preparation of the Administration List of state-owned goods / wealth of the Country for the first time was made according to the circumstances as of April 1, 1969 and April 1, 1970 whose

implementation must have been completed no later than 4 (four) months starting from the stipulation of this Persiden Instruction, namely March 30, 1971.

Thus to save and secure state property / national wealth assets, Perseroan Terbatas Kereta Api (PT. Kereta Api - Persero Indonesia), since Djawatan Kereta Api Republik Indonesia (DKARI) September, 28 1945 Djawatan Kereta Api Republik Indonesia inventory / State-Owned Goods / State Property Assets that are the responsibility and management of them in the form of:

1. Railways
2. The ground under the Railway and the ground around the left right, the Railway.
3. Buildings in every Train Station

Regarding state assets / State Property is the Land under the Railway, the land around the left right of the Railway and the buildings in each Railway Station are regulated in the Legislation as follows:

1. Government Regulation Number: 22 year 1963, about The State Railway Company. In Article (3), it confirms that:
All rights and obligations of equipment and property and business from the Railway Department are to switch to the Indonesian Railway State Company.
2. Law Number: 23 year 2007 on Railways.
In article 1 paragraph (4) determines that:
The Railway is a line consisting of a series of rail plots that include the benefits space of the railway line, the space belonging to the railway line and the railway control room, including the top and bottom of which are reserved for rail traffic.

Article 37 paragraph (1) confirms that:

The benefits space of the railway as referred to in article 36 letter (a) consists of, The Railway and the field of land on the left and right of the railway line, along with the space on the left, upper right and bottom used for the construction of the railway and the placement of railway operating facilities as well as other auxiliary buildings.

According to Boedi Harsono, the State can own land, because there is a legal relationship between the State and the land, including the category of affairs of objects or land used for public purposes such as public roads, including railway land, and rivers are owned by the State (Harsono, 1968).

Then it becomes clearer and more detailed that, State Assets/property Republic of Indonesia, management and responsibility for PT. Kereta Api - Persero Indonesia, are:

- 1) Railway Iron, an elongated size mounted above ground.
- 2) The ground beneath the Railway and the ground around the left right of the Railway.
- 3) Office buildings, Dinas Houses, Buildings, Warehouses, Guard Posts, parking lots, in every new Railway Station or Additional Railway and new existing building along the Railway Road.

That the construction of railway road, when this research was made especially in Java island is underway the construction of Dual Railway, which connects Surabaya – Jakarta, for the renewal of buildings / Rehab Buildings in every Train Station, is still carried out step by step, for the convenience of public benefit facilities, in order to ensure the progress and welfare of the community.

According to Alfred Stepan, the implementation of Development in the State is based on the theory of welfare state stating:

State Intervention on the concept of "Welfare State" which requires the State to organize development is to ensure the progress and welfare of the community. the state should not be passive but instead must be active, with state corporatism acting as the "Father of the Family" that seeks to regulate and connect all economic, and professional benefits, this solution is followed by the appearance of a strong State, which tends to have strong interference authority in almost all aspects of people's lives (Stepan, 2015).

- 1) The Unitary State of the Republic of Indonesia which belongs to the public interest there are 7 (seven) categories including:
- 2) Public roads and toll roads, railways (above ground, in above ground or in basements) drinking water/clean waterways, sewerage or sanitation
- 3) Reservoirs, dams, irrigation dams and other aquatic buildings
- 4) Ports, airports, railway stations and terminals
- 5) General hazard facilities, such as embankment countermeasures, flood hazards, lava and other disasters
- 6) Landfill
- 7) Nature reserve/heritage
- 8) Power generation, transmission and distribution (Wicaksono, 2007).

3. Utilization Of State-Owned Goods

That State Property / State Wealth Assets in the form of land under the Railway or the land around the left right of the Railway, is the land of the State.

Land of state is land directly controlled by the State, (Dahen, 2006)

Utilization is the utilization of State-Owned Goods that is not used in accordance with the main duties and functions of the ministry of state/institution, in the form of lease, borrowing, utilization cooperation, and building the handover/build for the handover by not changing the ownership status (Amiri, 2016).

State-owned goods/State Assets may be leased to third parties, whose implementation is regulated in Number 1, Appendix II of the Ministerial Regulation

Financial No: 96/PMK.06/2007, determines that:

Rent is the utilization of State-Owned Goods (BMN) by other parties within a certain period of time and receives cash rewards.

The following is affirmed in the number V paragraph (2) regulation of the Minister of Financial No: 96/PMK.06/2007, determines that:

The period of Lease of State-Owned Goods (BMN) for a maximum of 5 yrs since the signing of the agreement and can be extended.

State-owned goods / State Assets other than rent can also be managed with other parties, by means of Bangunan Guna Serah (BGS)

Bangun Guna Serah (BGS) is the utilization of land owned by the central government by other parties by establishing buildings and/or facilities, along with facilities, then in the power of use by other parties tsb within a certain period of time that has been agreed for the next land and buildings and or subsequent facilities facilities, handed back to the goods manager after the thought of the period of time (Rahmat, 2019).

Bangun Serah Guna is, the utilization of land owned by the central government by other parties by establishing buildings and or facilities along with its facilities and after completion of its construction is submitted to the control of goods to then be utilized by other parties for a certain period of time agreed (Ritonga, 2018).

That in paragraph 5 paragraph (2) Appendix V regulation of the Minister of Finance Number: 96/PMK. 06/2007 on The Implementation of the use, utilization, removal and transfer of state-owned goods, affirms:

Period of operation of Build Guna Serah (BGS or Bangun Guna Serah (BSG) by BGS/BSG partners 30 years from the moment the agreement is signed.

State-owned goods / State Assets of the Republic of Indonesia in the form of Railways, land and buildings in each Railway Station must be secured, rescued, used, benefited, operated and supervised by the Limited Railway Company (PT. Railways - Persero Indonesia), because the Assets of the State are the acquisition of a legitimate State (Sofiandi, 2017).

III Conclusion

1. Railways, Land under the Railway and the land around the left right of the Railway as well as the buildings in each Railway Station are the assets of the State / State Property of the Republic of Indonesia which is acquired mostly from the former relics of Western rights.
2. Railways, Land under railways and land around the left right of railways and buildings in every railway station, managed by the Indonesian Railway Company (PJKA) is in the public interest, the welfare of the people
3. That railways, land and buildings managed by the Indonesian Railway Company (PJKA), have all been registered Nomor Registrasi Inventarisasi Republic of Indonesia.
4. The land under the Railway, the land around the left right of the Railway has been certified Right of Use on behalf of the Ministry of Transportation of the Republic of Indonesia or on behalf of the Certificate of Property of Djawatan Railway Company (PJKA) / Limited Liability Railway Company (PT. Kereta Api - Indonesian Company)
5. State-Owned Goods / Assets of Wealth of the Unitary State of the Republic of Indonesia in the form of land, which is the responsibility and management of djawatan railway company (PJKA), can be leased on the basis of the Agreement for a period of 5 years and can be extended by 7 years
6. The proceeds from state-owned goods / State Wealth Assets in the form of land, must be deposited into the Bank Account of the General Coeffers of the Unitary State of the Republic of Indonesia.
7. State-Owned Goods/State Wealth Assets in the form of land can be cooperated with other parties through Bangun Guna Serah (BGS) and Bangun Serah Guna (BSG) for a period of 30 years.

8. Cooperation on The Benefit of State-Owned Goods / Assets of Wealth of the Republic of Indonesia, using The Build For Handover (BGS) and Build Handover (BSG) can be carried out through tenders at least 5 Bidders.

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