



## Juridical Analysis of Transfer of Agricultural Land Functions Into Non-Agricultural Land In The Cilacap Regency

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### Abstract

Cilacap Regency is one area with a relatively large area of land, namely agricultural land. It has a positive impact, namely helping to improve the regional economy, but there is also a negative impact, namely the conversion of agricultural land to non-agriculture. This study aims to determine the conversion of agricultural land into non-agricultural in Cilacap Regency and the obstacles to the transformation of agricultural land. This research used the normative juridical method, which conceptualizes the law as what is written in the legislation. Sources of data in this study used secondary data. The data collection method in this study used a literature study, namely by collecting literature such as books, scientific journals, and primary legal materials to support this research, as well as identification and clarification of legal facts in the field by asking questions to sources that were under this research. Based on the study and discussion results, the conversion of agricultural land to non-agricultural in the Cilacap Regency is not under the Cilacap Regency RTRW. The conversion of agricultural land to non-agricultural land without permission from the local government. It is due to the inhibiting factors consisting of internal factors and external factors. Internal factors are the lack of socialization by the Regional Government regarding the Regional Regulation of Cilacap Regency No. 9 of 2011 concerning the RTRW, and external factors, namely the lack of legal awareness of the community towards the rules for the conversion of agricultural land in Cilacap Regency.

**Keywords:** Transfer of Function, Agricultural Land, Non-agricultural Land

### Abstract

*Kabupaten Cilacap merupakan salah satu daerah yang memiliki tanah yang cukup luas, yaitu tanah pertanian. Hal ini membawa dampak positif yaitu membantu meningkatkan perekonomian daerah, namun ada juga dampak negatif yaitu alih fungsi tanah pertanian menjadi nonpertanian. Penelitian ini bertujuan untuk mengetahui alih fungsi tanah pertanian menjadi nonpertanian di Kabupaten Cilacap, dan hambatan terhadap alih fungsi tanah pertanian tersebut. Metode yang digunakan dalam penelitian ini adalah yuridis normatif, dimana hukum dikonsepsikan sebagai apa yang tertulis di peraturan perundang-undangan. Sumber data dalam penelitian ini menggunakan data sekunder. Metode pengumpulan data dalam penelitian ini menggunakan studi kepustakaan yakni dengan mengumpulkan literatur seperti buku-buku, jurnal ilmiah, dan bahan hukum primer untuk mendukung penelitian ini serta identifikasi dan klarifikasi fakta hukum di lapangan dengan cara mengajukan pertanyaan kepada narasumber yang sesuai dengan penelitian ini. Berdasarkan hasil penelitian dan pembahasan, alih fungsi tanah pertanian menjadi nonpertanian di Kabupaten Cilacap ada yang belum sesuai dengan RTRTW Kabupaten Cilacap, yaitu adanya alih fungsi tanah pertanian menjadi nonpertanian tanpa izin dari pemerintah daerah. Hal itu dikarenakan adanya faktor penghambat yang terdiri dari faktor internal dan faktor eksternal. Faktor internal yakni kurangnya sosialisasi yang dilakukan oleh Pemerintah Daerah tentang Perda Kabupaten Cilacap No.9 Tahun 2011 tentang RTRW dan faktor eksternal yaitu kurangnya kesadaran hukum masyarakat terhadap aturan alih fungsi tanah pertanian di Kabupaten Cilacap.*

**Kata kunci:** *Alih Fungsi, Tanah Pertanian, Tanah Nonpertanian*

## I. Introduction

The land is the primary need of the Indonesian people to carry out life. Man's relationship with the land is inherently inseparable because he will need land for his life. <sup>1</sup> Land constitutes a small part of the agrarian. <sup>2</sup> The land regulated by Agrarian Law is not land in its various

<sup>1</sup> Iswantoro, "Perspektif Yuridis Pengaturan Tata Guna Tanah Dalam Implementasi Kebijakan Pertanahan", *Supremasi Hukum*, Vol. 3, No. 2, (2014):19.

<sup>2</sup> Urip Santoso, "Kewenangan Pemerintah Daerah Terhadap hak penguasaan atas tanah", *Journal Dinamika Hukum*, Vol. 12, No. 1, (2012):186.

aspect but land from its juridical aspect, which is directly related to land rights that is part of the earth's surface.<sup>3</sup> In Law No. 5 of 1960 concerning the Regulation of Agrarian Principles, the right of control over land is contained.<sup>4</sup> Article 4 paragraph 1 of Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles specifies:

"Based on the right to control from the state as referred to in Article 2 specifies the existence of various rights to the surface of the earth, called land that can be owned by people either alone or together with other people and legal entities".<sup>5</sup>

Furthermore, in article 9 paragraph (2) of Law Number 5 of 1960, it is determined that every Indonesian citizen, both male and female, has the same opportunity to obtain something, the right to land as well as to benefit and benefit, both for oneself and one's family. As the number of people who need land for housing increases, economic, socio-cultural, and technological progress and developments also require the availability of land. Many examples are for agriculture.<sup>6</sup> The quality of life of people is increasing day by day. The increasing rate of life automatically affects the needs of human life.<sup>7</sup> Therefore, rising for a long time is felt as if the land becomes narrow, and becomes small, while the demand always increases, so it is not surprising that the soil's value increases in height. The primary need of the Indonesian people besides the board, in this case, the land, is food.

By the Regional Regulation of Cilacap Regency Nomor 9 of 2011 concerning the Regional Spatial Plan for 2011-2031, Article 36 paragraph (3), which contains agricultural allotment areas, especially wetlands in Cilacap Regency, is mentioned to have an area of approximately 63,092 hectares. Cilacap Regency is also part of the Sustainable Food Agricultural Land (LP2B). Article 36, paragraph (5) of the RTRW Regional Regulation, states that the area of sustainable food agricultural land is declared to be an area of approximately 65,050 hectares, including wet agrarian regions, agricultural areas dry, and horticultural areas located in every sub-district. According to Article 1 number (3) of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, Sustainable Food Agricultural Land namely means:

"The plots of agricultural land designated to be protected and developed consistently to produce staple food for food independence, security, and sovereignty nationwide."

However, there is still an application for converting agricultural land to non-agricultural land submitted against the ground in the Cilacap Regency.<sup>8</sup> It happens because the need for land other than agriculture, namely for housing, trade, and industry in Cilacap Regency, is already high, and Cilacap Regency has an area of large rice fields so that the rice fields are converted into non-agricultural land. The conversion of sustainable food agricultural land is the change in the function of sustainable farmland to non-sustainable agricultural land, either permanently or temporarily.

Of course, there is a change in the function of agricultural land that is not by the regional spatial plan of Cilacap Regency, so it is not permitted by the Regent to be changed from agricultural land to nonfarm. Based on the description above, the author is interested in conducting research under the title "**Juridical Analysis of Transfer of Agricultural Land Functions Into Non-Agricultural Land In The Cilacap Regency.**"

## **II. Research Problems**

1. What is the legality of converting agricultural land to non-agricultural land in the Cilacap Regency?
2. What are the obstacles to the prohibition of the conversion of agricultural land to non-agricultural land in the Cilacap Regency?

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<sup>3</sup> Urip Santoso, *Hukum Agraria: Kajian Komprehensif*, Jakarta: Kencana, (2017), 9.

<sup>4</sup> Urip Santoso, *Hak Atas Tanah, Hak Atas Pengelolaan Dan Hak Atas Satuan Rumah Susun*, Depok: Kencana, (2017), 4.

<sup>5</sup> M.Arba, *Hukum Agraria Indonesia*, Jakarta: Sinar Grafika, (2015), 7.

<sup>6</sup> Heru Kuswanto and Risna Diani, "Ahli Fungsi Tanah Pertanian Menjadi Non Pertanian Di Kabupaten Sidoarjo," *E-Journal Spirit Of Law*, Vol. 2, No. 2, (2016):16.

<sup>7</sup> Marla Mokoagow, dkk, "Faktor-Faktor Yang Mempengaruhi Ahli Fungsi Lahan Pertanian Ke Non Pertanian Di Kabupaten Minahasa," *E-Journal Unsrat*, Vol 7, No. 1, (2016): 5.

<sup>8</sup> Identification and clarification of legal facts Head of the Cilacap Regency Agriculture Service Supriyanto, S.P., M.P On Tuesday 6 July 2021 at 10.00 WIB

### III. Research Methods

The research method used in this study is the normative juridical method, where the law is conceptualized as what is written in the laws and regulations. This normative legal research is based on primary and secondary legal materials, which examine and examine library materials or secondary data. Secondary data are sources of data obtained from official documents and books relating to the object of study.<sup>9</sup> The legal materials used are primary, secondary, and tertiary legal materials. The data collection method is used by studying literature such as books, scientific journals, and primary legal materials to support this research. Primary data collection in this study used legal identification and clarification in the field.<sup>10</sup> The data analysis method used in this study is qualitative, namely, data that cannot be measured or measured by numbers directly.<sup>11</sup> Furthermore, presented descriptively, that is, the presentation of data in the form of a description arranged systematically, logically, and rationally. All data obtained are linked to one another by the subject matter under study so that it is a complete unity based on legal norms and legal doctrines relevant to the subject matter. The study was in the University of Muhammadiyah Purwokerto, the Library of the Faculty of Law, the University of Muhammadiyah Purwokerto, and the Agricultural Office of Cilacap Regency.

### IV. Research Results And Discussion

#### 1. The legality of Conversion of Agricultural Land to Non-Agricultural Land in Cilacap Regency

The conversion of agricultural land into built-up land is a consequence of the development of the territory as well as a result of population growth, including residents with the livelihoods of farmers, who also have household living needs that are different from others.<sup>12</sup> The process of land conversion is inevitable in every developing area. Developing areas usually have a reasonably high population growth with the increasing need for land for settlements and other public facilities, including industry.<sup>13</sup>

Land conversion originated from the demand for agricultural commodities, especially food commodities, which were less elastic to income than the demand for non-agricultural commodities. A further consequence is that, because the need for land to produce each thing is a derivative of the market for the commodity in question, economic development that leads to an increase in income will lead to a rise in the demand for land for activities outside of agriculture at a faster rate than the increase in demand for land for agricultural activities.<sup>14</sup>

The transfer of agricultural land functions must pay attention to the applicable legal rules. Not all farmland can be converted. In Article 11 paragraph (1) of the Regulation of the Central Java Governor No. 47 of 2013 concerning Technical Guidelines for Criteria, Requirements, and Procedures for The Transfer of Sustainable Food Agricultural Land in Central Java Province, it is stated that land determined based on criteria and requirements as Sustainable Food Agricultural Land is protected and prohibited from being converted. Then in Article 11, paragraph (2), it is stated that the transfer of functions of Sustainable Food Agricultural Land can only be carried out by the Government or local governments to:

- a. Acquisition of land in the public interest; or
- b. There was a disaster.

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<sup>9</sup> Zaenudin Ali, *Metode Penelitian Hukum*, Jakarta: Sinar Grafika, (2013),106.

<sup>10</sup> Ishaq, *Metode Penelitian Hukum dan Penulisan Skripsi, Tesis, Serta Disertasi*, Bandung:Alfabeta, (2017), 66.

<sup>11</sup> Saehudin Ali, "Metode Analisis Penelitian," *Jurnal Hukum Dan Penelitian Karya Ilmiah*, Vol.2, No.5, (2014): 4.

<sup>12</sup> Bintang Perdana Mahardika, dan Luthfi Muta'ali, "Dampak Alih Fungsi Lahan Pertanian Menjadi Lahan Terbangun Untuk Industri Terhadap Kondisi Sosial Ekonomi Masyarakat Sebagian Wilayah Kecamatan Ceper," *Jurnal Bumi Indonesia*, Vol. 7, No. 3, (2018): 2.

<sup>13</sup> R. Jannah, dkk, "Alih Fungsi Lahan Pertanian dan Dampaknya Terhadap Kehidupan Penduduk di Kecamatan Sayung Kabupaten Demak," *Jurnal Sosial Ekonomi Pertanian*, Vol. 1, No. 1, (2017).

<sup>14</sup> Muh. K. Rizky, "Analisis Perubahan Pemanfaatan Lahan Pertanian Menjadi Kawasan Terbangun Terhadap Kondisi Ekonomi Masyarakat Petani Di Kecamatan Pallangga Kabupaten Gowa," Skripsi, Fakultas Sains dan Teknologi, UIN Alaudin Makassar, (2017).

Furthermore, in Article 12 per regulation Gubernur Central Java Nomor 47 of 2013, it is stated that the conversion of the function of sustainable food agricultural land in the context of land acquisition for the benefit of general as referred to in Article 11 paragraph (2) point a shall be held by:

- a. Regional Spatial Plan;
- b. Regional Development Plan;
- c. Strategic Plan; and
- d. The work plan of the Local Government Task Force requires land.

In Article 39 of Government Regulation Nomor 1 of 2011 concerning the Determination and Transfer of Functions of Sustainable Food Agricultural Land, it is stated that the transfer of land functions of Sustainable Food Agriculture can only be carried out with the following requirements:

- a. Have a strategic feasibility study;
- b. Have a recent land function change;
- c. Exemption of ownership of land rights; and
- d. Availability of replacement land for the converted Sustainable Food Agricultural Land.

The conversion of agricultural land in the Cilacap Regency is prohibited. Article 76 paragraph (2) letter c of the Cilacap Regency Regional Regulation No. 9 of 2011 concerning RTRW states that it is not allowed to change the function of sustainable food agricultural land to non-agricultural cultivation except for the public interest must refer to laws and regulations. In this regard, of course, there are administrative sanctions for violators of RTRW rules. It is stated in Article 93 paragraph (1) of the Cilacap Regency Regional Regulation No. 9 of 2011 concerning RTRW that administrative sanctions are imposed on individuals and/or corporations, as well as officials who commit violations under the provisions of this Local Ordinance. Article 93 paragraph (2) also states that administrative sanctions, as referred to in paragraph (1), are given in the form of:

- a. Written warning;
- b. Temporary suspension of activities;
- c. Temporary suspension of public services;
- d. Site closures;
- e. License revocation;
- f. Rescindation of consent;
- g. Demolition of buildings;
- h. Restoration of space function;
- i. Administrative fines;
- j. Revocation of business license and/or cancellation of legal entity status; and/or revocation of legal entity status;
- k. Dismissed from office disrespectfully.

The current increase in agricultural productivity will not offset the loss of such land.<sup>15</sup> The decreasing land area for agriculture will eliminate the potential to produce rice that can meet the needs of its regions and other regions. It makes agricultural land very important for farming activities, especially food security. In addition, if this land conversion is not covered, it will further accelerate the land conversion that occurs a few years later.<sup>16</sup>

However, in practice in the field, these rules are often ignored. There is still a conversion of agricultural land to non-agricultural land in the Cilacap Regency that is not by the RTRW and has not met the requirements that have been regulated in PP No. 1 of 2011 concerning the Determination and Transfer of Functions of Sustainable Food Agricultural Land. Furthermore, administrative sanctions against perpetrators who violate the Cilacap Regency Regional Regulation No. 9 of 2011 concerning RTRW have not been carried out optimally.<sup>17</sup>

That certainly has a direct and indirect impact. The direct impacts are loss of investment in irrigation infrastructure, natural deterioration of *the landscape*, and environmental problems. Then the indirect effect is caused by population inflation from urban areas to city edge areas. Agricultural land

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<sup>15</sup> Charles, Francis A, Twyla E. Hansen, Allison A. Fox, Paula J. VestHannah E. Nelson, Andrea E. Lawseth & Alexandra English, Farmland Conversion To NonAgricultural Uses In The US And Canada: Current Impacts And Concerns For The Future, *International Journal Of Agricultural Sustainability*, Vol. 10, No. 1, (2012):8-24

<sup>16</sup> Zara Rosalia Princess, "Analisis Penyebab Alih Fungsi Lahan Pertanian Ke Lahan Nonpertanian Kabupaten/Kota di Provinsi Jawa Tengah 2003-2013," *Eko-Regional*, Vol. 10, No. 1, (2015): 18.

<sup>17</sup> Identification and clarification of the legal facts Head of the Cilacap Regency Agriculture Service Supriyanto, S.P., M.P On Tuesday 6 July 2021 at 10.10 WIB

conversion activities influence the environment. The change of agricultural land to non-agricultural land will affect the balance of the agricultural land ecosystem.<sup>18</sup>

## 2. Obstacles to the Prohibition of The Conversion of Agricultural Land into Non-Agricultural Land in Cilacap Regency

Factors affecting land function change can be divided into two factors, namely direct and indirect factors. Direct factors are conversion factors at the farmer level that directly affect farmers' decisions. These factors include the socioeconomic conditions of farmers, such as education, financial ability, land taxes, land prices, and land location. Meanwhile, indirect factors are conversion factors at the regional level, where these factors do not directly affect farmers' decisions. These factors include population growth which affects the growth of residential development and changes in economic structure towards industry and services that will increase the need for transportation facilities and land for industry.<sup>19</sup>

Prevention needs to be carried out by the Local Government regarding converting agricultural land to non-agricultural land without permission in the Cilacap Regency. However, it has inhibiting factors such as internal factors and external factors. Internal factors come from within the Regional Government, and external factors, namely factors that come from outside, in this case, the community. For internal factors, namely the lack of socialization carried out by the Cilacap Regency Regional Government on the rules regarding the transfer of agricultural land functions, in this case, the Cilacap Regency Regional Regulation No. 9 of 2011 concerning RTRW.<sup>20</sup> Furthermore, external factors come from the community itself. Weak legal awareness of agricultural land conversion actors related to the Cilacap Regency RTRW so that there is still a change in the function of agricultural land to non-farming without permission in the Cilacap Regency.<sup>21</sup> It certainly causes losses for the Local Government and also the community itself.

## V. Conclusions

This conversion of agricultural land occurs due to the high population growth with the increasing need for land for settlements and other public facilities, including for industry. It certainly has a direct and indirect impact. The direct impacts are the loss of investment in irrigation infrastructure, natural deterioration of the landscape, and environmental problems. Then the indirect effect is caused by population inflation from urban areas to city edge areas. However, in practice in the field, the rules regarding the conversion of agricultural land are often ignored. There is still a conversion of agricultural land to non-agricultural land in Cilacap Regency without permission from the government, and it has not met the requirements that have been regulated in PP No. 1 in the Year 2011 concerning the Determination and Conversion of Sustainable Food Agricultural Land. Administrative sanctions against perpetrators who violate the Cilacap Regency Regional Regulation No. 9 of 2011 concerning RTRW have not been carried out optimally.

Furthermore, regarding the inhibiting factors in efforts to prevent the conversion of agricultural land into non-agricultural land without permission in the Cilacap Regency, there are two inhibiting factors, namely internal and external factors. The inner aspect is the lack of socialization carried out by the Cilacap Regency Government to the rules regarding the transfer of agricultural land functions, in this case, namely the Regency Bylaws Cilacap No. 9 of 2011 concerning RTRW. Meanwhile, external factors are the low legal awareness of agricultural land conversion actors related to the Cilacap Regency RTRW. So there is still a change in the function of agricultural land to non-farming without permission in Cilacap Regency, which causes losses to the Local Government and the community itself.

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<sup>18</sup> Noviyanti, dkk, "Analisis Dampak Alih Fungsi Lahan Pertanian Terhadap Pendapatan Petani di Kabupaten Mimika," *Jurnal Kritis (Kebijakan, Riset dan Inovasi)*, Vol. 5, No. 1, (2021): 6.

<sup>19</sup> Devi Aryani Sulistyawati, "Analisis Dampak Alih Fungsi Lahan Pertanian Terhadap Ketahanan Pangan di Kabupaten Cianjur", Skripsi, Fakultas Ekonomi dan Manajemen, Insitut Pertanian Bogor, 2014.

<sup>20</sup> Identification and clarification of the legal facts Head of the Cilacap Regency Agriculture Service Supriyanto, S.P., M.P On Tuesday 6 July 2021 at 10.30 WIB.

<sup>21</sup> *Ibid*

## VI. Suggestions

1. The government must be strict with the RTRW rules so that there is no conversion of agricultural land to non-farming in the Cilacap Regency that is not by the RTRW.
2. There needs to be continuous monitoring from the Cilacap Regency Government and improved coordination between relevant agencies on the issue of agricultural land conversion.
3. The community is expected to know the rules for transferring agricultural land functions in the Cilacap Regency.

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