
Juridical Analysis of Reclaimed Land Rights in Batam City – Case Studies PT. Pasifik Karya Sindo

Silvia Handayani^a, Siti Nurkhotijah^b, Darwis Anatami^c, Nicha Suwalla^d, Dedy Sunarto^e

^a Fakultas Hukum, Universitas Batam, Indonesia, Email: slvhndyani@gmail.com

^b Fakultas Hukum, Universitas Batam, Indonesia, Email: sitinurkhotijah@univbatam.ac.id

^c Fakultas Hukum, Universitas Batam, Indonesia, Email: darwanananta02@gmail.com

^d Fakultas Hukum, Universitas Batam, Indonesia, Email: nichasuwalla@univbatam.ac.id

^e Dinas Lingkungan Hidup, Pemerintah Kepulauan Riau, Indonesia, Email: dedysunarto27@gmail.com

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Abstract

This study examines the juridical analysis of land rights over reclamation areas in Batam City, with a case study of PT. Pasifik Karya Sindo. The core issue lies in the legal status of reclaimed land, which is not yet comprehensively regulated under Indonesian law, leading to legal uncertainty for both business actors and local authorities. This research employs a normative juridical method with statutory, conceptual, and case study approaches. Data were collected through literature review, analysis of relevant legislation, and examination of legal documents. The findings indicate that reclaimed land essentially remains part of state-controlled coastal areas under the Basic Agrarian Law and sectoral maritime regulations. However, the granting of land rights over reclaimed areas requires clearer legal foundations to avoid conflicts with the principles of legal certainty and justice. The case of PT. Pasifik Karya Sindo illustrates the regulatory disharmony between the authority of the Batam Development Board and the local government, which has resulted in delays in the legalization of reclamation land rights. This study recommends regulatory synchronization between the central government, the Batam Authority, and local government, as well as the formulation of specific regulations on the management of reclamation land to ensure legal certainty and prevent future land disputes.

INTRODUCTION

Indonesia, as an archipelagic state with more than 17,000 islands and one of the world's longest coastlines, holds a strategic position both geographically and economically.¹ The coastal and small island regions are not only vital for maritime sovereignty but also for socio-economic development.² Land, as a fundamental resource, plays a central role in human life,

¹ Data Kementerian Dinas Kelautan dan Perikanan, Tahun 2009.

² Farida Patittingi, *Dimensi Hukum Pulau-Pulau Kecil di Indonesia*, Rangkang Education, Jogjakarta. 2012, hal. 9

thereby requiring legal regulation as stipulated in Article 33 paragraph (3) of the 1945 Constitution, which mandates that land, water, and natural resources shall be controlled by the State and utilized for the greatest prosperity of the people.³

The rapid population growth has significantly increased the demand for land, while its availability remains constant.⁴ This imbalance has resulted in land scarcity and soaring land prices, disproportionately affecting lower-income groups in securing adequate housing. One policy alternative to address this issue is coastal reclamation, which involves the creation of new land through the filling or drainage of water areas.

Reclamation is legally regulated under Law No. 27 of 2007 as amended by Law No. 1 of 2014 on the Management of Coastal Areas and Small Islands. From the perspective of national agrarian law, reclaimed land falls under the regime of State control as stipulated in the Basic Agrarian Law of 1960 (UUPA). Thus, reclaimed land is essentially State land, the utilization of which must comply with spatial planning and statutory provisions.

Batam City, situated along an international shipping route and in close proximity to Singapore and Malaysia, is one of Indonesia's fastest-growing urban and industrial centers. The high demand for land for housing, industry, commerce, port facilities, and tourism has driven reclamation practices as a means of urban expansion. However, these practices often give rise to complex legal issues, particularly concerning the legal status and rights over reclaimed land. Regulatory disharmony between the Central Government, the Local Government, and the Batam Development Authority (BP Batam) has created legal uncertainty.⁵

Under Presidential Decree No. 41 of 1973, land in Batam is managed under the framework of the Right of Management (HPL) granted to BP Batam.⁶ Consequently, reclaimed land in Batam is categorized as State land under BP Batam's management. This dualism of authority between BP Batam and the Local Government has frequently led to disputes among government bodies, investors, and local communities.⁷

The case of PT. Pasifik Karya Sindo illustrates such complexities. As a shipbuilding company undertaking reclamation to expand its industrial land, the company faced significant

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⁴ Hasni, *Hukum Penataan Ruang dan Penataan Tanah Edisi Kedua*, Rajawali Pers, Jakarta: 2010. hlm. 351.

⁵ Flora Pricilia Kalalo. *Implikasi Hukum Kebijakan Reklamasi Pantai dan Laut di Indonesia*. Buku I. Logoz Publishing. Bandung. 2009. hlm. 123.

⁶ A.P. Parlindungan, *Hak Pengelolaan Menurut Sistem UUPA*, Mandar Maju, Bandung, 1989, hlm. 1

⁷ Urip Santoso. 2005. *Hukum Agraria & Hak-Hak Atas Tanah*, Jakarta, Kencana Prenada Media Grup, hlm.157

legal obstacles in obtaining land rights due to overlapping authorities and regulatory inconsistencies. This case exemplifies the lack of legal certainty in the implementation of reclamation policies in Batam.⁸

This research addresses three main problems: (1) the legal basis for regulating land rights over reclamation in Batam; and (2) the implementation of such land rights in the case of PT. Pasifik Karya Sindo. The objectives are to examine the normative framework governing reclamation, analyze its practical implementation in Batam, and identify challenges along with possible juridical solutions.

The significance of this study is both theoretical and practical. Theoretically, it contributes to the development of agrarian and environmental law by providing deeper insights into the legal framework governing reclamation and its application within the context of regional autonomy.⁹ Practically, the study offers recommendations for government authorities, BP Batam, investors, and local communities to enhance legal certainty, transparency, and fairness in managing reclamation land.¹⁰

The originality of this research lies in its specific focus on Batam City and the case of PT. Pasifik Karya Sindo, which has not been extensively studied in previous academic works. Accordingly, this study offers academic novelty and practical relevance in addressing unresolved legal issues surrounding reclamation land rights.

In sum, the urgency of this research lies in clarifying the legal status of reclamation land in Batam, which bears significant implications not only for investment certainty but also for the protection of coastal communities' rights and the sustainable governance of spatial development.

DISCUSSION

Legal Norm of Reclamation in Batam City

Land is a strategic resource that has social, economic, and political functions, so its use is strictly regulated by law. In the Indonesian context, Article 33 paragraph (3) of the 1945 Constitution emphasizes that the earth, water, and natural resources contained in it are

⁸ Flora Pricilla Kalalo. *Hukum Lingkungan dan Kebijakan Pertanahan di Wilayah Pesisir*. Raja Grafindo Persada. Jakarta. 2016. hlm. 33-38.

⁹ Elisabeth Nurhaini Butarbutar, *Metode Penelitian Hukum*, Refika Aditama, Bandung, 2018, hlm 124

¹⁰ Robi Suwarna "Reklamasi Pantai di Pulau Batam", Skripsi, Universitas Jendral Achmad Yani, Bandung, 2014, hlm. 3

controlled by the state for the greatest possible prosperity of the people. This principle is the basis for regulating land rights, including reclaimed land.

Reclamation, which is the activity of creating new land by eroding or draining aquatic areas, is regulated sectorally through Law No. 27 of 2007 jo. Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands. This law states that reclamation can only be carried out based on the permission of the central or regional government as it may, with the obligation to meet environmental requirements such as an environmental impact analysis (EIA). From the perspective of agrarian law, the status of reclaimed land refers to the 1960 Law. Article 2 of the UUPA emphasizes that the state controls all land, including the proceeds of reclamation. Thus, reclaimed land is essentially state land. This status means that to be used by a third party, the land must first be allocated its rights, for example in the form of Building Use Rights (HGB), Right of Use, or Land Management Rights (HPL).

Especially in Batam, regulations have become more complex due to the existence of Presidential Decree No. 41 of 1973, which gives authority to the Batam Authority (now BP Batam) to control and manage all land in the Batam area through the HPL scheme. As a consequence, the reclaimed land is automatically included in the scope of BP Batam's HPL, before it can be given to a third party. This is different from other regions in Indonesia, where the main authority is usually held by the local government through the National Land Agency (BPN).

However, since the enactment of the regional autonomy policy, the Batam City Government has also obtained authority in spatial planning, environmental permits, and building permits. This dualism raises the issue of authority: on the one hand BP Batam owns HPL over the land, on the other hand the City Government has the authority to regulate the use of space and the environment. The unclear division of authority creates legal disharmony and uncertainty for investors and the public.

From an environmental perspective, reclamation cannot be separated from the principle of sustainable development. Law No. 32 of 2009 concerning Environmental Protection and Management requires that every reclamation activity must pay attention to the carrying capacity of the environment. In practice, many reclamation projects in Batam are questioned for their legality and impact because the licensing mechanism is unclear, especially in relation to inter-agency coordination.

In legal theory, state control over reclaimed land includes the functions of *bestuursdaad* (regulatory action), *regelendaad* (regulatory action), and *beheersdaad* (management action). In Batam, these functions are divided between BP Batam, the Batam City Government, and BPN, without any specific regulations explaining the operational mechanism. As a result, there is a legal *vacuum* in the implementation aspect.

In addition, Indonesia's positive law has not specifically regulated the procedure for granting rights to reclaimed land. Some sectoral regulations such as Presidential Regulation No. 122 of 2012 concerning Reclamation in Coastal Areas and Small Islands only regulate the procedures for reclamation licensing, not the status of rights to the land from reclamation. Thus, in Batam there is a double complexity: the absence of comprehensive national rules, plus the dualism of local authority between BP Batam and the City Government.

The implication of this condition is legal uncertainty that can trigger disputes. Investors often face obstacles in obtaining certainty of the status of reclaimed land, while coastal communities consider that reclamation often ignores traditional and environmental rights. This condition shows that the existing regulations are still partial, not able to answer the need for legal certainty.

By looking at the legal framework, it can be concluded that the legal basis of the right to reclaimed land in Batam rests on three pillars: (1) the 1960 UUPA which affirms state control over land; (2) sectoral regulations regarding reclamation and the environment; and (3) Presidential Decree No. 41 of 1973 which granted HPL to BP Batam. However, the relationship between these three pillars has not been harmoniously regulated, causing complexity in implementation.

Implementation of Reclamation Rights in Batam City

The implementation of reclamation cannot be carried out without finding out more about the status of the reclaimed land, who is the legal subject who can be the owner of the reclaimed land. Article 12 of Government Regulation Number 16 of 2004 concerning Land Management states that:

"Land derived from land arising or reclaimed in coastal waters, tides, swamps, lakes and former rivers is directly controlled by the state".

Then, based on the Explanation of Article 12 of Government Regulation Number 16 of 2004 concerning Land Management, it is stated that reclamation is the reclamation of water areas in order to expand land space, the use and utilization of land must be in accordance with the Regional Spatial Plan. Article 1 number 1 of Government Regulation Number 26 of 2008 concerning National Regional Spatial Plans provides a definition of national spatial planning is a policy direction and strategy for the use of state spatial space.

Batam City is one of the cities in the Riau Islands Province. Batam City is an island that is located very strategically because it is located on international shipping routes. The city is also very close to Singapore and Malaysia. Batam City is one of the fastest-growing cities in Indonesia.¹¹

In accordance with Presidential Decree Number 41 of 1973 contains the establishment of the Batam Island Industrial Area Development Authority (now the Batam Business Agency/BP Batam) to manage and develop Batam Island as an industrial area. The Batam Authority is tasked with carrying out development on Batam Island without the intervention of the local government. The determination of the status of Batam Island as an industrial zone through Presidential Decree Number 41 of 1973 concerning the Batam Island Industrial Zone not only made changes in the policy pattern in the industrial sector, but also in the land sector. With this change in status, land policy became the authority of the Batam Island Industrial Area Development Authority, called the Batam Authority, and now it has changed to a Free Trade Zone (FTZ) area based on Government Regulation Number 2 of 2009, with the granting of management rights.

Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands states that the definition of Reclamation is an activity carried out by people in order to increase the benefits of land resources from an environmental and socio-economic perspective by means of drainage, land draining or *drainage*.¹²

The concept of reclamation policy in Indonesia has been regulated in Indonesia's positive law in Article 34 of Law Number 27 of 2007 concerning the Management of Coastal

¹¹ *Batam City Profile*, accessed from <http://aburifqi.wordpress.com/2007/12/29/profil-kotabatam/>, on May 01, 2025

¹² Drainage is the activity of hoarding soil and/or rocks above the surface of the soil and/or rocks, Land draining is an activity carried out to turn waters and/or land into dry land by pumping and/or by drainage and *drainage* is a method of draining surface water or groundwater so that the waters turn into land. See Presidential Regulation of the Republic of Indonesia Number 122 of 2012 concerning Reclamation in Coastal Areas and Small Islands Article 1 numbers (3), (4), (5).

Areas and Small Islands.¹³ Article 34 of Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands is a clear legal institution in providing legal certainty for the implementation of coastal reclamation in Indonesia by prioritizing a reclamation concept in the form of integrated beach development and management.

Management rights come from the conversion of control rights over state land. The right of management comes from the Dutch translation which comes from the word *Beheersrecht* which means right of control.¹⁴ Boedi Harsono stated that: "Management Rights in the systematics of land control rights are not included in the category of land rights. Management Rights are not in essence the right to land but the 'skill' of the right to control the state over the land."¹⁵

The same opinion was also expressed by Maria S.W. Sumardjono who stated that: "Management Rights are a 'part' of the right to control the state whose authority is (partially) delegated to the management rights holder. Therefore, the right to management is a public function/authority like the right to control the state, and is not appropriately equated with "rights" as stipulated in Article 16 of the Basic Agrarian Law because land rights only concern civil aspects."¹⁶

The right of management used to come from what is called Hak *Beheer* (*beheersrecht*), which is the right of control over state land which after the UUPA through the Regulation of the Minister of Agrarian Affairs Number 9 of 1965 Implementation of the Conversion of Control of State Land (PMA 9/1965) was converted into land rights according to the National Land Law. If with *the right of management*, the land is used by government agencies for their own purposes, then it is converted into Right of Use (HP), but if the land is not only to be used by itself, there are other parts of the land that will be handed over to a third party which includes

¹³ Article 34 of Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands states: Reclamation of Coastal Areas and Small Islands is carried out in order to increase the benefits and/or added value of Coastal Areas and Small Islands from a technical, environmental, and socio-economic aspect. The implementation of reclamation as referred to in paragraph (1) is obliged to maintain and pay attention to: the sustainability of the life and livelihood of the community; the balance between the interests of utilization and the importance of preserving the environmental functions of the Coast and Small Islands; as well as technical requirements for picking, dredging, and stockpiling materials

¹⁴ Supriadi, *Agrarian Law*, Jakarta. Sinar Grafika, 2007, p. 148

¹⁵ Boedi Harsono, *Indonesian Agrarian Law, History of the Establishment of the Basic Agrarian Law, Its Content and Implementation*, (Jakarta: Djambatan, Sixth Edition (Revised edition), 1995, p. 280

¹⁶ Maria S.W. Sumardjono, *Tanah Dalam Perspektif Hak Ekonomi Sosial dan Budaya*, Jakarta: Kompas, 2007, hlm. 208

terms of allocation, use, and period and finance, then the *right to manage* is converted into HPL.¹⁷

Land Management Rights are the right to control by the state whose enforcement authority is partially delegated to the right holder.¹⁸ This understanding can be interpreted that HPL is not one of the rights to land, but only a delegation of the right to control the state. The Right to Control the State is based on the provisions in Article 33 Paragraph 3 of the Constitution of the Republic of Indonesia of 1945 (1945 Constitution) which states that the earth, water, and space, including the natural resources contained therein at the highest level, are controlled by the state as an organization of power for all the people.

Management rights in the systematic process of land tenure rights are not included in the category of land rights. The HPL holder does have the authority to use the land that is given the right for his business purposes, but that is not the purpose of granting the right, the main purpose is that the land in question is provided for use by other parties in need.¹⁹

In the provision and grant of land, the holder of the right is given the authority to carry out activities that are the authority of the state. In this regard, the Land Management Rights are not in essence the right to pure land but are the "Gems" of the Right to Control the State.²⁰

The term "HPL" is not mentioned in the UUPA. Its existence is only mentioned in the General Explanation Number II point (2), namely "*...guided by the purposes mentioned above, the State can give such land to a person or legal entity with a right according to its designation and needs, such as Property Rights, Business Use Rights or Right of Use or give it in management to a Governing Body (Department, Position or Autonomous Region) to be used for the implementation of their respective duties* (Article 2 Paragraph (4) of the Basic Agrarian Law).

Meanwhile, based on the formulation contained in Article 1 Number 2 of Government

¹⁷ Arie S Hutagalung, et.al, "The Principles of Agrarian Law," Complementary reading material for Agrarian Law courses (Depok, 2001), p.43.

¹⁸ Indonesia, *Government Regulation on Business Use Rights, Building Rights, and Usage Rights*, Government Regulation No.40 of 1996, LN No.58 of 1996, TLN No.3643, Article 1, quoted from Arie Sukanti Hutagalung and Markus Gunawan, *Government Authority in the Land Sector*. Jakarta: Rajawali Press, 2008.

¹⁹ Boedi Harsono. *Indonesian Agrarian Law, History of the Establishment of the Basic Agrarian Law, Its Content and Implementation*, Jakarta: Djambatan, 2003, p. 280

²⁰ *Ibid*

Regulation Number 40 of 1996 concerning Business Use Rights, Building Rights, and Land Use Rights (Government Regulation Number 40 of 1996), Land Management Rights are *"The right to control from the state whose implementing authority is partially delegated to the holder."*

The provisions of the right to reclaimed land in Batam City itself are regulated in the Regulation of the Head of BP Batam Number 3 of 2020 and the Regulation of the Head of BP Batam Number 26 of 2021 concerning land governance, including reclamation, in Article 4 of Land Acquisition regulates the process of acquisition, handover, and issuance of land allocations to users. This is a key article that governs the initial activities before HPL can be allocated.²¹

From this description, it can be seen that basically, what is meant by Land Management Rights is a right that contains the authority to plan the designation and use of the land in question, use the land for the purpose of carrying out its business, and hand over parts of the land to a third party according to the requirements determined by the company holding the right, including the aspects of designation, use, term, and finance with the provision that the granting of land rights to the third party concerned is carried out by the competent officials in accordance with the applicable laws and regulations.

CONCLUSION

Based on the description above, the following conclusion was found, there must be legal certainty with consistent and synchronous regulations that all regulate the implementation between central and regional agencies in Batam City in the implementation of the use of coastal areas for reclamation. Law Number 27 of 2007 amends Law Number 1 of 2014 concerning the Management of Coastal Areas and Small Islands states that the definition of Reclamation is an activity carried out by people in order to increase the benefits of land resources from an environmental and socio-economic perspective by means of confinement, land draining or drainage. Reclamation planning must be aligned with the city's spatial plan. The authority of coastal reclamation is in the work area of the Mayor, Governor and related Ministers. Reclamation development in Indonesia in general and Batam City in particular must refer to various guidelines and laws that regulate coastal reclamation.

²¹ Chapter II Land Acquisition Part One, Land Acquisition Article 4 paragraph 1 of the Regulation of the Head of BP Batam Number 3 of 2020 concerning the Implementation of Land Management

Furthermore, there is overlap of regulations and causes legal uncertainty in it. The solution in this case is that BP Batam revokes the PL on the object, because it is not his authority to allocate land that is still in the shape of the sea. There is a dualism of stipulation when a Foreign Agency wants to carry out reclamation activities in the coastal area of Batam City, such as for example PT. Pasifik Karya Sindo which has obtained a PKKPR (Approval of Suitability of Marine Space Utilization Activities) document for reclamation activities from the Ministry of Marine Affairs and Fisheries (KKP), immediately BP Batam issued a Location Determination (PL) for the land to be reclaimed by PT. Pasifik Karya Sindo to PT. KOH BROTHERS. The problem here is also when the conditions given by Land Management (PL) are still "sea" status, not a "land" land where BP Batam does not have authority in this matter. It is justified that all land/land in Batam City is all managed by the Batam Business Agency. After being reclaimed, BP Batam acquired the land here, the Mandatory Money for the Year of Authority (UWTO) was issued, then BP Batam gave it to the party entitled to the reclaimed land/land. The Annual Mandatory Amount of the Authority, hereinafter abbreviated as UWTO, is the land rent that must be paid by the recipient of the land allocation to the Batam Business Agency which will then be used for the development of infrastructure and public facilities.

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Chapter II Land Acquisition Part One, Land Acquisition Article 4 paragraph 1 of the Regulation of the Head of BP Batam Number 3 of 2020 concerning the Implementation of Land Management

Data Kementerian Dinas Kelautan dan Perikanan, Tahun 2009.

Drainage is the activity of hoarding soil and/or rocks above the surface of the soil and/or rocks, Land draining is an activity carried out to turn waters and/or land into dry land by pumping and/or by drainage and *drainage* is a method of draining surface water or groundwater so that the waters turn into land. See Presidential Regulation of the Republic of Indonesia Number 122 of 2012 concerning Reclamation in Coastal Areas and Small Islands Article 1 numbers (3), (4), (5).

Indonesia, *Government Regulation on Business Use Rights, Building Rights, and Usage Rights*, Government Regulation No.40 of 1996, LN No.58 of 1996, TLN No.3643, Article 1

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