



Landowners Beware: Neglected Land Risks being Seized by the State!

Use it or risk losing it! That's the message to landowners in Indonesia from the Ministry of Agrarian Affairs and Spatial Planning (the "**Ministry**"), which also serves as the National Land Agency (*Badan Pertanahan Nasional* – "**BPN**"). A recent public statement by one of its officials sparked concern over whether the government can seize land that appears to be neglected.

This article outlines the legal provisions that allow the state to reclaim land deemed "abandoned", even if when it is owned or held under recognized land rights.

I. Background

On 13 March 2025, Ministry spokesman Risdianto Prabowo said that "land or houses inherited from parents may be owned by the state if such land is not utilized in accordance with its purpose or is abandoned". His statement resulted in the Minister of Agrarian Affairs and Spatial Planning/BPN Head, Nusron Wahid, having to clarify the issue of state seizure of private property before the House of Representatives.

The legal basis for state seizure of abandoned land varies depending upon the type of land title held. These include Freehold Title (*Sertifikat Hak Milik* – "**SHM**"), Right to Build (*Hak Guna Bangunan* – "**HGB**"), Right to Cultivate (*Hak Guna Usaha* – "**HGU**"), Right to Use (*Hak Pakai* – "**HP**"), Management Rights (*Hak Pengelolaan* – "**HPL**"), and/or other Grounds for Land Control (*Dasar Penguasaan Atas Tanah* – "**DPAT**") (together, "**Land Rights**").

Before getting into the details of land seizure, it is necessary to understand that, under Article 6 of Law No. 5 of 1960 on Basic Agrarian Provisions ("**Agrarian Law**"), every land right must have a "social function". The Agrarian Law states that land ownership cannot be justified if it is used (or not used) for personal interests, especially if such interests are detrimental to society.

Government Regulation No. 20 of 2021 on Control Over Abandoned Areas and Lands (“**GR 20/2021**”) and Ministry Regulation No. 20 of 2021 on the Procedures to Control and Utilize Abandoned Areas and Lands (“**Ministry Reg. 20/2021**”) outline the due process for government land seizure due to abandonment.

II. Grounds for Seizure

Government seizure of land due to abandonment is determined based on the specific Land Right attached to each plot, as follows:

- a) Land held under SHM may be seized if it is intentionally unused, not utilized, and/or neglected, resulting in:
 - (i) the land falling under public control and becoming a residential area;
 - (ii) continuous control by another party for 20 years without any legal relationship with the original SHM owner; or
 - (iii) failure to fulfill the land’s social function, regardless of whether the original owner is still identifiable.
- b) Land held under HGB, HP, HPL, or DPAT may be seized if it is intentionally left undeveloped, unused, not utilized, and/or not maintained for two years after the relevant ownership right is issued.
- c) Land held under HGU may be seized if it is intentionally left undeveloped, unused, and/or not utilized for two years after the relevant ownership right is issued.

III. Seizure Procedure

The Ministry must follow a strict procedure to seize privately held land, consisting of the following stages:

- a) Inventory of Land Indicated as Abandoned

In this stage, the local Land Office prepares an inventory of land indicated as abandoned, starting no earlier than **two years** after the relevant Land Rights are issued. The inventory is compiled based on reports or information provided by Land Rights holders, Ministry officials, officials from other ministries or agencies, local governments, or members of the public. After finalizing the inventory, the local Land Office will convey it to the Provincial Land Office, which recapitulates the data at the provincial level. The consolidated inventory is then submitted to the Ministry for analysis and determination of further actions.

b) Evaluation of Abandoned Land

In this stage, the Provincial Land Office will form and designate a committee to evaluate land previously indicated as abandoned (legally referred to as the “**C Committee**”). The C Committee consists of officials from the Ministry and the relevant local government. Before the evaluation begins, the head of the Provincial Land Office must notify the relevant Land Rights holders in writing at each of their known addresses or domiciles. The evaluation must be completed within 180 days.

The evaluation process includes the following steps:

- (a) Inspection on the Land Rights documents (e.g., certificates);
- (b) Review of plans for the development, usage, utilization, and/or maintenance of the land;
- (c) On-site inspection of the development, usage, utilization, and/or maintenance of the land; and
- (d) Issuance of notifications to the Land Rights holders instructing them to develop, use, utilize, and/or maintain their land.

To conduct the steps mentioned above, the C Committee has the authority to:

- (a) inspect the physical and legal data of the land;
- (b) inspect land books and/or other written evidence of land registration to determine the existence of any encumbrance over the land;
- (c) request statements from the Land Rights holders;
- (d) conduct physical inspections of the land using any available technology (this must be done at least twice, at the beginning and at the end of the evaluation period);
- (e) prepare an analysis to determine the reasons for the land's abandonment; and
- (f) prepare a report on the evaluation.

After concluding the above steps, the C Committee must conduct a hearing to discuss the evaluation results and provide technical advice to the head of the Provincial Land Office in the form of an official report. The hearing may conclude that the land is intentionally not developed, used, utilized, and/or maintained by the Land Rights holder, or otherwise. If any member of the C Committee or the Land Rights holder refuses to sign the official report after the hearing, the refusal must be noted in the report without affecting its validity. The official report must then be submitted by the C Committee to the head of the Provincial Land Office.

If the hearing concludes that the land was intentionally abandoned, the head of the Provincial Land Office must notify the Land Rights holder to develop, use, utilize, and/or maintain their land **within 180 days** of the notification. Following this notification, the Land Rights holder must submit progress reports every 30 days to the head of the Provincial Land Office, detailing efforts made to utilize the land. These reports will be used to assess whether the land has been sufficiently utilized.

c) Warnings Due to the Abandonment of Land

If, after the 180-day period, the head of the Provincial Land Office finds that, based on the evaluation process, the land still has not been sufficiently developed, used, utilized, and/or maintained, the following warnings must be issued:

- (a) a first warning letter, ordering the Land Rights holder to use their land within 90 days of receipt of the letter;
- (b) if the first warning letter is not complied with, a second warning letter, ordering the land to be used within 45 days of receipt of the second letter;
- (c) if the second warning letter is not complied with, a third warning letter, ordering the land to be used within 30 days of receipt of the third letter.

During the period between the issuance of the warning letters, the Land Rights holder must submit a bi-weekly report on the progress of land utilization to the head of the Provincial Land Office. These reports will be used to determine whether the Land Rights have been sufficiently utilized.

Note that this warning stage is the final opportunity for the holder to prevent government seizure. The next stage will be **a point of no return**.

d) Determination of Abandoned Land

If the Land Rights holder fails to comply with the third warning letter, the head of the Provincial Land Office will recommend the land be designated as abandoned to the Minister of Agrarian Affairs and Spatial Planning. This recommendation will be made no later than 30 days after the expiry of the period stated in the third warning letter.

The following actions constitute non-compliance with the third warning letter:

- (a) failure to develop, use, utilize, and/or maintain the land in accordance to its intended use;
- (b) failure to carry out any follow-up activities to complete the development, use, utilization, or maintenance of the land; or
- (c) failure to submit a request for titles over the land.

Any land proposed for designation as abandoned **cannot be the object of any legal process or transaction**. This includes the transfer, separation, merger, extension, renewal, encumbrance, or any form of utilization of the Land Rights.

The Minister of Agrarian Affairs and Spatial Planning will issue the determination of abandonment, which will state that:

- (a) the status of the land is designated as abandoned;
- (b) the Land Rights are revoked;
- (c) any legal relationship between the former holders and the land is severed; and
- (d) the land is declared state land.

If a plot of land is designated as abandoned, the previous holders must vacate the land within 30 days of the determination.

IV. Conclusion

The process of determining a plot of land as abandoned must go through several procedural stages. As the determination is not arbitrary, Land Rights holders should promptly utilize their land in any way possible (such as maintaining the proper condition of the land and cutting grass or other shrubs over the land so they do not become overgrown), if they receive any notification or indication that land officials are initiating abandonment proceedings concerning their property.

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