

Implementation of the release of TNI AD occupation land/building assets that cause disputes in the Kodam IV/Diponegoro area

Diki Kurniawan

Military Law College, Indonesia

diki29a7x@gmail.com



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Abstract

Purpose: Since the beginning of the independence of the Republic of Indonesia, the interests of regional defense and security have been the main focus. This resulted in many lands and buildings being controlled by the Indonesian National Army (TNI) as part of the occupation in the interest of state security. Although the Basic Agrarian Law (UUPA) of 1960 has abolished the basis of colonial regulations related to land and buildings, ownership of land/buildings occupied by the TNI is still a legal debate. The case of Wisma Kaliurang in Yogyakarta shows the complexity of this conflict, where the legal owner, in this case Samuel Soegito's heirs, has paid compensation to the Indonesian Army and obtained a certificate for the land/building. However, Kodam IV/Diponegoro still claims ownership of the assets of the Indonesian Army Occupation.

Research methodology: In resolving this kind of conflict, it is important to ensure that the ownership status of the original owner needs to be recognized and respected, while also taking into account the defense and security needs of the Indonesian state.

Keywords: *TNI AD Occupation, Land/Building Ownership Conflict, Asset Release Policy, Wisma Kaliurang Yogyakarta*

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1. Introduction

The TNI Occupation Land occurred after the war of independence of the Republic of Indonesia in 1945. Many foreign citizens, especially the Netherlands, who after the independence of the Republic of Indonesia left the Indonesian state and left the land and buildings that they originally owned in an empty state, these lands were then occupied by the TNI and used as headquarters/offices, dormitories, housing, schools and other military facilities, one of which occurred in Kodam IV / Diponegoro, so that it will be possible to have a conflict related to the status of the ownership of land rights to land/buildings located in the Kodam IV/Diponegoro area.

The Special Region of Yogyakarta Province is a province that has its own privileges compared to other regions, there are many lands/buildings belonging to the Sultanate that can be used and managed for the public interest on the condition that the community/institution submits button fibers to the Yogyakarta Sultanate. The button fiber of the Sultanate itself is in the form of a decree on the granting of land rights from the Sultanate or Duchy to the community/institution within a certain period of time and can be extended/renewed. This provision is what distinguishes it from other regions (Sukirno, Respatono, Erniyanti, & Fadlan, 2022; Zahrani, Nurmayani, & Deviani, 2022).

A conflict arises when one of the people who has the status of an Indonesian citizen requests by submitting an application for the Indonesian National Army (TNI AD) to release or remove the land/building that has been occupied by the Indonesian National Army (TNI AD) and hand it over to

the holder of the legal rights to the land/building. The validity of the Indonesian National Army (TNI AD) in carrying out the occupation of land/buildings is still questionable regarding its legal legality.

Based on the Law on Agrarian Principles (UUPA) Article 16 paragraph (1) that the rights to land/buildings that can be said to be valid according to agrarian law include: Property Rights, Business Rights, Building Use Rights, Use Rights, Lease Rights, and others while Occupation can be interpreted as occupation that only controls but cannot be said to be the legal owner of the land/building. The debate regarding the validity of the ownership of the right to the land/building of the TNI AD Occupation with the heirs has not yet received a bright spot whether the land/building is legally released or still maintained as the land/building of the TNI AD Occupation.

Based on the Letter of the Chief of Army Staff to the Commander of Kodam IV/Diponegoro with Number B/205-04/23/207/Set dated February 9, 1995 concerning the principle permit for the release of land/buildings of the TNI AD Occupation to the Repiter House on Jl. Hastorenggo No.2 RT.8 Kaliurang Hargobinangun Village, Pakem, Sleman Province of the Special Region of Yogyakarta and Villa Hastorenggo 2 on Jl. Pramuka No. 56 RT.8 Kaliurang Hargobinangun Village, Pakem, Sleman, Special Region Province of Yogyakarta on the condition that the applicant provide compensation to the Indonesian National Army (TNI AD).

That on the basis of the issuance of a letter regarding the principle permit for the release of land/building assets of the TNI AD Occupation, the applicant prepared his budget needs of Rp. 160,000,000,- (one hundred and sixty million rupiah) in order to meet the compensation conditions which were planned to be used for the construction of military service houses and the repair of Makorem 072/Pamungkas.

Based on the Instruction Letter of the Commander of the Armed Forces of the Republic of Indonesia (ABRI) Number INST/02/VI/1989 dated June 8, 1989 and the Telegram Letter of the Chief of Army Staff Number ST/766/1984 dated June 6, 1984 concerning Instructions for the Return of Land/Buildings Occupied by the Indonesian National Army (TNI AD) that compensation in the form of money/services cannot be justified unless the compensation has been expressly regulated in the guideline letter applicable in the environment The Indonesian National Army (TNI AD) regarding the release of land/buildings for the TNI AD Occupation, namely in the form of replacement land/buildings on the basis of deliberation with rights holders. This is the basis for the study in writing this thesis (Manalu, Idham, & Erniyanti, 2023; Sutama, Dewi, & Rahayu, 2023).

The release of assets has focused on Wisma Kaliurang, which was previously the land/building of the TNI AD Occupation. The decree issued by the Leadership of the Indonesian National Army (TNI AD) in the past regarding the principle permit for the release of assets in the decree contains several conditions regarding the release of land/building assets of the Indonesian Army Occupation, including the implementation of research on the tract on land, research on ownership rights before and after being controlled by the Indonesian National Army (TNI AD) and information about land/replacement buildings whose value is determined on the basis of deliberation with the right holder as compensation from the applicant, these conditions are used as a concession on the submission of an application for the release of land/building assets of the TNI AD Occupation (Hastjarjo, 2023; Mwesigwa, 2021; Zahrani et al., 2022).

The application letter from the applicant regarding the release of land/building assets of the TNI AD Occupation was submitted systematically through the Military Agency of the Indonesian National Army (TNI AD) accompanied by reasons and information that the land had been purchased by the applicant, including first, the Hastorenggo 1 Repeater House with the Deed of Sale and Purchase of Notary Mrs. Soemi Sajogjo Moedito Mardjikoeh SH Number 124 between the old owner and the new owner and the Deed of Release of Property Rights Number 125 dated April 29 1989 and the second asset in the form of Villa Hastorenggo 2 with the Deed of Sale and Purchase of Notary Mrs. Djoharningsih SH Number 08 dated January 13, 1994 between the old owner and the new owner and HGB Certificate Number 29, which in this case the files were used as an attachment to the application

letter regarding the application for permission to release land/building assets with the status of TNI AD Occupation from the applicant to the Military Agency of the Indonesian National Army (TNI AD) at that time.

For this reason, based on past legal events regarding the status of control and rights to the land/building of Wisma Kaliurang which is in the Province of the Special Region of Yogyakarta, until now it is still a polemic and a long debate between Kodam IV/Diponegoro and the heirs of Alm. Mr. Samuel Soegito, each of whom has his own arguments, the heirs of Alm. Mr. Samuel Soegito pointed out and argued that with the issuance of the Certificate of Property Rights (SHM) No. 422 dated October 24, 1992 and the Certificate of Building Rights (HGB) No. 00358 dated February 1, 2011 (still in the process of inheritance) which are all in the name of the Alm. Mr. Samuel Soegito, according to him, the status of the right to the land/building is the one that has proven it perfectly and legally based on the current laws and regulations.

In response to this, the Kodam IV/Diponegoro argues that the land/building has been controlled and utilized since 1950 which should be prioritized by the Regional National Land Agency regarding the basis of rights to the land/building and until now it is still registered in the TNI AD Occupation book Bujuknis Kajanzi AD Number Juknis/01/IX/1984 dated December 27, 1984 concerning the list of buildings belonging to the Indonesian National Army (TNI AD)/Kodam Occupation IV/Diponegoro, according to him, the land/building is still under the authority of Kodam IV/Diponegoro and his party continues to strive to maintain the assets of the TNI AD Occupation.

Based on this background, the researcher is interested in raising in a thesis with the title: **Implementation of the release of land/building assets of the TNI AD Occupation that causes disputes in the Kodam IV/Diponegoro area.**

1.1. Problem Formulation

Based on the description of the background, the author presents the following main problems :

1. What is the legal basis for Occupation by the Indonesian National Army (TNI AD) against the land/buildings it controls?
2. How is the release of rights carried out by the Indonesian National Army (TNI AD) over the land/buildings of Occupation in the Kodam IV/Diponegoro area?

2. Literature Review

2.1. Conceptual Framework

1. Soil is the surface of the earth. Based on Article 4 paragraph (1) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (Harsono, 2008).
2. Land rights are the rights of ownership of land that authorize the subject to use the land they control (Setiawan, 2021). Article 4 paragraph (2) of the Law on Agrarian Principles (UUPA) authorizes the use of the land concerned, as well as the body of the earth and water and the space on it, only if it is necessary for the interests directly related to the use of the land within the limits of this Law and other higher legal regulations.
3. Conversion of Land Rights is a change in land rights in connection with the enactment of the Agrarian Principles Law (UUPA). The rights to land that existed before the enactment of the Law on Agrarian Principles (UUPA) were changed to the rights to land stipulated in Article 16 (Saptomo & Sihombing, 2020).
4. Property rights are hereditary, strongest and fullest rights that can be owned by people over land, taking into account the provisions in Article 6 of the Law on Agrarian Principles (UUPA). It is a legal institution that in the Law on Agrarian Principles (UUPA) is regulated in Articles 20 to 27, Article 50 paragraph (1), Article 56 and in the Conversion Provisions of Article I, Article II, and Article III (Setiawan, 2021). to the holder of the right to physically control the land that is titled. But there is also juridical control which in fact is physical control carried out by other parties, such as land leased to other parties and the tenant physically controls. There is also land that is physically controlled by other parties without rights or without juridical control (Harsono, 2008).
5. Right to Use is the right to use and/or collect the proceeds of land directly controlled by the state

or land belonging to another person, which gives the authority and obligations specified in the decision of its grant by the official authorized to grant it or in an agreement with the owner of the land, which is not a lease agreement or a land tillage agreement, everything as long as it does not conflict with the spirit and provisions of this law. Based on Article 41 paragraph (1) of the Law on Agrarian Principles (UUPA).

6. Building Use Rights are land rights given to a person to erect and own a building on the land for a period of 30 years and can be extended for 20 years.
7. Occupation is an occupation, use or placement of vacant land.
8. Sultanate Land is land owned by the Sultanate which includes Keprabon Land and Non-Keprabon Land or Dede Keprabon Land located in Regencies/Cities within the DIY area.
9. Dudic land is land owned by the Dudipoly which includes Keprabon land and non-Keprabon or Dede Keprabon land located in Regencies/cities within the DIY area.
10. Serat Kekancingan is a decree on the granting of land rights from the Sultanate or Duchy to the community or institution which is given within a certain period of time and can be extended.

2.2. Arrangement of Occupation Land in the TNI AD Environment

The pluralism of land laws in the colonial era caused conflicts over the right to control Eigendom land as a western right during the colonial period, not only applicable to lands owned by Foreign Citizens (WNA) but also allowed to be given to land owned by Indonesian Citizens (WNI). After independence in a state of war emergency, the country needed a lot of land for the Indonesian Army base. The acquisition of land for these needs is carried out by the Indonesian Army by way of occupation of Used Foreign-Owned Assets. The conflict arose when some people with Indonesian citizen status demanded that the Indonesian Army return the occupied land to them. The validity of the TNI AD in the implementation of land occupation is still questioned by the community who declare themselves as legitimate heirs based on the Certificate of Property Rights (SHM) derived from the conversion of rights *eigendom*. In Article 20 Paragraph (1) of the UUPA, the definition of property rights is formulated, namely the strongest and fulfilled thing owned by land rights holders. On the land, the owner may cultivate all kinds of plants and erect buildings without reducing some exceptions. Land ownership only applies to Indonesian citizens who are explicitly mentioned in the General Explanation of the Roman Law No. 5 II.

In practice, as also done by the Supreme Court in Decision Number 34K/TUN/2007, the term eigendom right is used to designate a property right to a land. The conversion of eigendom rights of land belonging to Indonesian citizens of foreign descent into property rights is in fact still polemical to this day. The most common dispute is the overlap of ownership of the land of the converted heirs occupied by the Indonesian Army.

Among the cases regarding the TNI AD occupation land the most is related to who has the right to own the land. Part of the land with occupation status used to be used for housing for soldiers and officers who after retirement occupied houses on occupation land. The land occupied by the Indonesian Army occurred because after the Indonesian War of Independence in 1945, many foreign citizens, especially the Dutch, left Indonesia and left the land and buildings they originally owned in a vacant state. The land was then occupied by the Indonesian Army and used as headquarters/offices, dormitories, school housing and other facilities (Adzini, 2019).

Entitlement conversion *eigendom* land owned by Indonesian citizens of foreign descent has become property rights until now, there are still many disputes over the ownership of land rights. One of the disputes that often occurs is the overlap of land ownership between the heirs of the conversion results occupied by the Indonesian Army. Regarding the occupation carried out by the TNI AD, it is carried out on the basis of rights *eigendom* which is a western right during the colonial period does not only apply to lands owned by Foreign Citizens (WNA) but is also given to land owned by Indonesian Citizens (WNI). After independence in a state of war emergency, the country needed a lot of land for weapons bases to service housing for the Indonesian National Army. The acquisition of land for these needs was carried out by the Indonesian National Army by way of occupation of Used Foreign-Owned Assets (ABMA). The authority of the Indonesian National Army in carrying out the

occupation of ABMA land after independence on the grounds of war emergency is based on (Deslin, 2023):

1. Law of the Republic of Indonesia Number 74 of 1957 concerning the Revocation of "*Regeling Po De Staat Van Oorlog En Beleg*" and the Determination of the State of Danger. In article 36 it is stated that the ruler of a state of war has the right to order the delivery of goods taken for possession or use for the purpose of security or defense and this possession can be handed over to appointed officials, in this case the Kodam IV/Dip area.
2. Circular Letter of the Ministry of Home Affairs of the Republic of Indonesia dated May 9, 1950 Number H/20/5/7 which states that "a piece of land is taken for the purpose of erecting a state building (office, school, etc.). The building has been erected and is still being used for the benefit of the state, in this case the return of rights is impossible because of the interests of the state". Most of the disputes that arise are lands that are controlled by occupation.

The land control by the Indonesian National Army as a result of occupation, which is quite large, among others, comes from the former Dutch East Indies Military (KNIL) or the occupation of the Japanese army as well as land and buildings of ex-foreign/Chinese countries in the form of land intended for defense/military during the war emergency. So that the land and buildings that have been abandoned by their owners are controlled by the National Army until now. So that the purpose of the above regulation is the basis of the authority of the Indonesian National Army (TNI) in carrying out occupation in a state of war at that time. However, of course, when the state of war has been revoked and there is a regulation of the Minister of Finance Number 31/PMK.06/2015 concerning Former Foreign/Chinese Owned Assets, land control by the Indonesian National Army (TNI) should be abolished from the occupation list as a form of legal protection for land rights holders who have been issued certificates of Ownership. The status of occupied land can be grouped as follows:

1. Land is still used by the TNI and is needed for the purpose of implementing its duties and functions.
2. The land is no longer used by the TNI for the purpose of carrying out its duties and functions and has been controlled by a third party.
3. The land is already owned by a third party with the issuance of a certificate of ownership rights in accordance with laws and regulations.

In the regulation of land and occupation buildings, the TNI AD itself issued a Kasad Telegram Letter Number ST/1130/2020 dated April 20, 2020 regulating the orderly implementation of administration, security and control of land assets and/or occupation buildings of the TNI AD carried out by the Commanders, Include:

1. Carry out the security of land assets and/or TNI AD occupation buildings physically and administratively.
2. The return of land and/or occupation building assets can be carried out if the legality of ownership is legally valid and must be approved by the Head of Police and submitted through the service area (kodam).
3. To avoid problems in the future, to carry out research on the assets to be returned against proof of legal ownership and coordinate with the Local BPN.
4. If possible, the land and/or occupation building assets to be returned can be purchased by the Indonesian Army.
5. In order to seek compensation for the return of land and/or occupational building assets in the form of land, buildings, official vehicles, facilities and infrastructure and is not justified in the form of money or services.

3. Research Methodology

3.1. Type of Research

The type of research used in this study is a type of normative juridical research supported by a normative empirical approach. The normative legal research method includes legal principles, legal systematics, the level of legal synchronization, legal history and legal comparison, these legal materials can be obtained through literature studies and interviews with relevant officials.

3.2 Nature of Research

The nature of the research used is descriptive analysis, namely to get an overview and provide an explanation of the research object. Furthermore, it is analyzed in accordance with the relevant provisions of the law, legal theories and opinions of legal experts on the implementation of the release of assets on land/buildings occupied by the TNI by the Indonesian National Army (TNI AD), land rights, transfer of land rights, conversion of land and management rights over the land/buildings it controls.

3.3. Legal Materials

1. the Constitution of the Republic of Indonesia in 1945 as amended first to fourth in 1999-2002;
2. The Civil Code (*Burgerlijk Wetboek*);
3. Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles;
4. Law Number 20 of 1961 concerning the Revocation of Land Rights and Objects Thereon;
5. Government Regulation No. 8 of 1953 concerning the Ownership of State Lands;
6. Government Regulation No. 24 of 1997 concerning Land Registration;
7. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration;
8. Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of Several Provisions of the Agrarian Principles Law (UUPA);
9. Regulation of the Minister of Agrarian Affairs No. 5 of 1960 concerning the Addition of Provisions of the Regulation of the Minister of Agrarian Affairs No. 2 of 1960;
10. Regulation of the Minister of Agrarian Affairs Number 13 of 1961 concerning the Implementation of Rights Conversion *Eigendom* and Other rights whose deeds have not been replaced;
11. Regulation of the Minister of Agrarian Affairs Number 9 of 1965 concerning the Implementation of the Conversion of Ownership Rights over State Land and Provisions on Further Wisdom;
12. Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning Land Registration;
13. Regulation of the Head of the National Land Agency No. 8 of 2012 concerning Amendments to the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning Land Registration;
14. Regulation of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for the Grant and Cancellation of State Land Rights and Management Rights;
15. Regulation of the Minister of Home Affairs No. 3 of 1979 concerning Provisions on the Application and Grant of New Rights to Land from the Conversion of Western Rights;
16. Regulation of the Minister of Finance Number 31/PMK.06/2015 concerning the Settlement of Used Foreign/Thionghoa Assets;
17. Instruction of the Commander of the Armed Forces of the Republic of Indonesia (ABRI) Number INST/02/VI/1989 dated June 8, 1989 concerning the Control of Land/Occupation Buildings within the ABRI;
18. Telegram Letter of the Chief of Army Staff Number ST/766/1984 dated June 23, 1984 concerning the Return, Assignment and Transfer of Rights to Land/Buildings of the Army Occupation must be approved by the Chief of Army Staff;
19. Telegram Letter of the Chief of Army Staff Number ST/99/2015 dated January 14, 2015 concerning the Arrangement and Control of Land Assets/Buildings of the TNI AD Occupation;
20. Telegram Letter of the Chief of Army Staff Number ST/3488/2017 dated October 10, 2017 concerning the Arrangement and Control of Land Assets/Buildings of the Indonesian Army Occupation;
21. Telegram Letter of the Chief of Army Staff Number ST/1130/2020 dated April 20, 2020 concerning Administrative Control, Security and Issuance of Land Assets/Buildings of the Indonesian Army Occupation.

3.4. Collection of Legal Materials

The technique of collecting legal materials in this thesis research was obtained by literature research (*Library Research*) in the form of legal materials related to the problem being researched and plus the results of interviews with parties from officials or other interested parties.

3.5. Analysis of Legal Materials

The definition of analysis here is intended as an explanation and interpretation in a logical, systematic, logical and systematic manner showing a qualitative way of thinking and following the rules in writing scientific research reports. After the analysis of legal materials is completed, the results are presented descriptively, namely with the problem being researched (Sutopo 1998). The research materials used and obtained by the researcher will be analyzed using the description method, namely describing and describing certain circumstances of the existing problem, then a conclusion is drawn as an answer to the problem being studied.

3.6. Drawing conclusions

Conclusion-making is carried out using a deductive mindset, meaning it is a method of drawing conclusions that are specific from statements that are general. This conclusion is the answer to the problems raised, based on the results of the test and discussion convincingly as far as the research is conducted. As for the study of the concept that is general in nature, it is specifically analyzed from Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles and other laws and regulations, and the opinions of Agrarian law experts through the books of their research.

4. Results and Discussions

4.1. Analysis of Case Number 81/Pdt.G/2018/PN. YYK, May 14, 2018

That the land and buildings of the Kaleirang guesthouse located in Hargobinangun Village, Pakem District, Sleman Regency are land belonging to the Sultanate of Yogyakarta in accordance with Law of the Republic of Indonesia Number 3 concerning the Establishment of Yogyakarta is the first basic regulation that gives attribution authority to the Government of Yogyakarta to regulate agrarian affairs to be continued by the UUPA but the law has not yet been implemented because the fourth dictum letters a and b there is a stipulation that further arrangements for swapraja land and former swapraja will be regulated by government regulations, namely the Decree of the President of the Republic of Indonesia Number 33 of 1984 concerning the Full Implementation of the UUPA in Yogyakarta Province which applies retroactively since the issuance of Permendagri Number 66 of 1984 concerning the Full Implementation of the UUPA in the Province of Yogyakarta and affirmed in the Law of the Republic of Indonesia Number 13 of 2012 on the Privileges of Yogyakarta.

The Sultanate as a legal entity is the subject of the right to have ownership rights to the sultanate land, where the land and building have been occupied by the Plaintiff's parents since the beginning of Indonesian independence (the object of dispute). That in Yogyakarta Regulation Number 1 of 2017 concerning the Management and Utilization of Land and Sultanates and Duchys in Article 6, Sultanate Land and Duchy Land consist of Keprabon Land and Non-Keprabon Land or Dede Keprabon.

That the land and building of Wisma Kaliurang located in Hargobinangun Village, Pakem District, Sleman Regency is Sultanate land which is included in the category of Non-Keprabon Land or Dede Keprabon. That in Yogyakarta Regulation Number 1 of 2017 concerning the Management and Utilization of Sultanate and Duchy Land, it is explained that the land that has been used by the community/institution and does not yet have button fibers so that it is clear that the land and building of Wisma Kaliurang are Sultanate land.

That based on the above, it is very clear that the act committed by the Defendant who installed a plaque/writing whose content claimed the land belonging to the Plaintiff (recorded in HGB Certificate Number 358) is currently still in the process of inheriting an area of 4,795 M2 located in Hargobinangun Village, Pakem District, Sleman Regency recorded in the name of Samuel Soegito is an Unlawful Act.

That by claiming land of the Sultanate of DIY_namely the land and building of the Kaliurang guesthouse located in Hargobinganun Village, Pakem District, Sleman Regency belong to the Defendant but Courtesy of the Palace_that is Land of Dede Keprabon_and the Defendant ordering the Plaintiff to vacate the land is an Unlawful Act because it is not the rights and authority of the Defendant but the Rights and Authorities of the Sultanate of the Special Region of Yogyakarta.

4.2. Legal Remedies by Owners of Property Rights Certificates whose Land is Occupied by the Indonesian National Army (TNI)

Table 1. Land Regulation in Yogyakarta

Number and Year	About
<i>Rijksblad</i> Sultanate Number 23 of 1925	Andarbeni rights (right to own)
<i>Rijksblad</i> Sultanate Number 24 of 1925	Andarbeni Rights
Law Number 22 of 1948	Regional Government
Law Number 3 of 1950	DIY Formation
Regional Regulation Number 5 of 1954	DIY Formation
Regional Regulation Number 10 of 1956	Implementation of the Village Decision Regarding the Transfer of Andarbeni Rights from Urban Villages and Ancestral Rights (Customary Rights) for Generations over Land and Changes in Land Types in Yogyakarta
Regional Regulation Number 11 of 1954	Transmission of Individual Ownership of Land for Hereditary Generations
Regional Regulation Number 12 of 1954	A Valid Sign of Hereditary Individual Property Rights to Land
Law Number 5 of 1960 (UUPA)	Agrarian Trees
Presidential Decree Number 33 of 1984	Full Implementation of the UUPA in Yogyakarta
Decree of the Minister of Home Affairs Number 66 of 1984	Implementation of the Full Implementation of the UUPA in Yogyakarta Province
Regional Regulation Number 3 of 1984	Implementation of the Full Implementation of the UUPA in Yogyakarta Province

Source: Data processed from Huda (2016)

Some regulations, such as *rijksblad*, the formation of regions, to the rules regarding land that existed before the UUPA, are regulations that apply locally in Yogyakarta. However, after the issuance of the UUPA in 1960, new conditions emerged for land regulation in Yogyakarta. This happens because the UUPA is an effort by the central government to unify laws in the field of land throughout Indonesia.

The birth of the Privilege Law became the *legal standing* for the Sultanate and Duchy as land owners in Yogyakarta. Articles 32 and 33 of the Privileges Law state that, in exercising their authority in the field of land, both the Sultanate and the Duchy are declared as 'legal entities'. Therefore, the Sultanate and Duchy can be legal subjects who can have ownership rights to land. However, not all land in Yogyakarta belongs to the Sultanate and Regency, only keprabon land and non-keprabon land can be owned and become the authority of the Sultanate and Duchy to be managed and developed.

Data on land and building assets of Mess Korem Hastorenggo 1, Hargobinangun, Sleman with an area of 9,902 M2 with Occupation status which is **Sultan Ground** with **Register Number 3073233** used as a Villa with the name of Kaliurang guesthouse and controlled by Mrs. Tuti (daughter of the old waiter a.n. Mr. Gito alm.) who has been certified HGB and Mess Korem Hastorenggo 2, Hargobinangun, Sleman with an area of 2,042 M2 with Occupation status which is **Sultan Ground** with **Registration Number 30732034** which has been certified SHM Number 422.

Juridically, the basic basis (*Groundrechten*) Land rights, The following can be described related to the Customary Land of D.I. Yogyakarta which is the Land of the Sultanate (Sultan Ground/SG) and the Land of the Duchy (Paku Alam Ground/PAG):

d/PAG)

With the establishment of the Sultanate and the Duchy as the subject of rights that can have ownership rights to land, there are two classifications of ownership in Yogyakarta by the ruler (in this case the Sultanate is also the Governor by determination, and the Duchy as the Deputy Governor also by determination), namely the land belonging to the Sultanate who is referred to as the Sultan *Ground* (SG) and land belonging to the Duke called Pakualaman *Ground* (PAG).

That regarding the land of Wisma Hastorenggo 1 and 2, S. Soegito as the owner of the certificate had sent a letter to the Pangdam IV/Dip on March 4, 1984 submitting an application for the release of the right of occupation on the land of the Right to Use Building Number 29, Survey Letter Number 1754 of 1924 covering an area of 4,790 M2 and the land of the Right to Use Building Number 6/1940, 2,240 M2. The two Parsils land have been purchased out of affection rather than being bought by others for the purpose of developing tourism in Kaliurang.

The mechanism that needs to be passed if you want to apply for the release of land/building assets occupied by the TNI AD is that the Applicant must make an application letter for the return of TNI AD Occupation assets to him by attaching proof of legal ownership according to the national land law, then the TNI AD forms a Research Team to research related to the legality or not of the ownership file owned by the Applicant if from the Research Team's statement that the ownership file The applicant is declared valid according to the applicable land law at that time, the TNI AD issues a principle permit for the release of TNI AD Occupation land/building assets signed by the Chief of Army Staff to the rightful owner so that there is no debate in the future, and vice versa if the TNI AD Research Team states that the applicant's ownership file is invalid, the TNI AD responds to the applicant's letter with a rejection to the Applicant.

Therefore, if faced with a dispute over the TNI AD Occupation, in this case Wisma Hastorenggo I and Wisma Hastorenggo II in Kaliurang, his party could not explain in detail the reason why the Kodam IV/Dip at that time approved the application submitted by the Applicant, in this case Mr. Samuel Soegito as the Applicant regarding the application for the release of the TNI AD Occupation land/building assets and the Kodam IV/Dip has not removed the TNI AD Occupation land/building from the register book Occupation of the Indonesian Army.

However, the current situation of Kodam IV/Dip is still trying to defend the land/building of the Indonesian Army Occupation which is known to everyone that the land/building is included in the category of cultural heritage that must be protected because the land/building was once used as a meeting place for Prince Diponegoro and the military officials at that time in the battle of Ambarawa and the meeting of the first President of the Republic of Indonesia, Ir. Soekarno, with several foreign guests from various countries on the land/building.

Then recently the Heirs of Mr. Yap Kie Djiang submitted an application to the Kodam IV/Dip to approve the release of land assets/buildings of the TNI AD Occupation over the Repiter House on Jl. Hastorenggo Number 2 RT. 8 Kaliurang Hargobinangun Village, Pakem, Sleman, Special Region Province of Yogyakarta and Villa Hastorenggo 2 on Jl. Pramuka Number 56 RT. 8 Kaliurang Hargobinangun Village, Pakem, Sleman Province of the Special Region of Yogyakarta by attaching evidence of a letter of cancellation of the sale and purchase between Mr. Samuel Soegito and Mr. Yap Kie Djiang for the sale and purchase of land built by the Repiter House on Jl. Hastorenggo No.2 RT.8 Kaliurang Hargobinangun Village, Pakem, Sleman Province of the Special Region of Yogyakarta and Villa Hastorenggo 2 on Jl. Pramuka No. 56 RT.8 Kaliurang Hargobinangun Village, Pakem, Sleman Province of the Special Region of Yogyakarta, according to the Heirs of Mr. Yap Kie Djiang, the land is still legally owned by Mr. Yap Kie Djiang because of the discovery of a 1995 letter regarding the cancellation of the Sale and Purchase between Mr. Samuel Soegito and Mr. Yap Kie Djiang.

The efforts of the Kodam IV/Dip have currently formed a team from Kodam IV/Dip consisting of the Slogdam IV/Dip, Zidam IV/Dip, Kumdam IV/Dip and related staff to follow up on the dispute settlement over the Repiter House on Jl. Hastorenggo Number 2 RT. 8 Kaliurang Hargobinangun Village, Pakem, Sleman, Special Region Province of Yogyakarta and Villa Hastorenggo 2 on Jl. Pramuka Number 56 RT. 8 Kaliurang, Hargobinangun Village, Pakem, Sleman, Special Region Province of Yogyakarta.

4.3. Implementation of the Release of TNI AD Occupation Assets in the Diponegoro IV Military Command Area in accordance with the Provisions of Laws and Regulations

The land/buildings that are currently the object of dispute in the Korem 072/Pamungkas Yogyakarta area, including land and buildings of Hastorenggo 1 and Hastorenggo 2 in the form of Repiter Houses and Villas, until now have not found a bright spot related to the validity of the ownership of the land/buildings of the TNI AD Occupation.

The legal basis of the TNI AD in occupying the land/building began with the Lease Agreement Letter carried out by the TNI AD represented by the Commander of the Sleman Regency Garrison in 1953 with Yap Kie Djiang descended from Thionghoa as the legal owner of the land based on ownership *Eigendoom* Then after the occurrence of the lease agreement carried out by both parties, Mr. Yap Kie Djiang is no longer known from the provisional analysis by the source that it is possible that Mr. Yap Kie Djiang left the Yogyakarta area because at that time the situation of the State of Indonesia was still not conducive after the occurrence of Military Aggression II by the Dutch until finally Mr. Yap Kie Djiang left Yogyakarta to seek refuge in a safe place.

After the issuance of the UUPA in 1960, finally the land and buildings used to be foreign ownership were declared no longer valid under the national land law, so the land and buildings controlled by the TNI AD at that time were recorded in the TNI Army Occupation book which until now is still recorded in the TNI AD Occupation book Bujuknis Kajanzi AD Number Juknis/01/IX/1984 dated December 27, 1984 concerning the list of buildings belonging to the Indonesian National Army (TNI AD)/Occupation Kodam IV/Dip However, until now the disputed land and buildings have not been registered in the list of State assets in BMN because the TNI AD has not legally converted the rights to land and buildings according to the UUPA.

That the land/building at that time was used for military purposes, namely the Janminpersad Pusdiksik building managed by the Minpers Kodam VII/Dip in accordance with the Letter of the Pangdam VII/Dip to the Head of Janminpersad Number B/2511/XI/1980 dated November 3, 1980, then the management was transferred from the Minpers Kodam VII/Dip to Korem 072/Pmk in accordance with the Letter of the Pangdam VII/Dip Number B/05/I/1981 dated January 2, 1981, and then with the Letter of the Pangdam VII/Dip Number B/523/IV/1981 dated April 6, 1981 concerning permission to Danrem 072/Pmk to manage the building/land of the former Pusdiksik, then on April 16, 1986 the building/land of the former Pusdiksik was used as the Mess of Korem 072/Pmk for guest service and its management by a third party based on Danrem Order 072/PMK Number Sprin/135/IV/1986 concerning an order to Mr. Samuel Soegito to manage the Korem Mess located in Timoho, Wisma Kaliurang (Wisma Kalioerang), Wisma Hastorenggo I and Wisma Hastorenggo II in Kaliurang, until now the building is still in dispute between the Heirs of Mr. Samuel Soegito and the Kodam IV/Dip.

The mechanism carried out by Mr. Samuel Soegito in submitting an application for the release of Occupation to the TNI AD is carried out in a hierarchical and gradual manner by attaching evidence of valid ownership certificates according to the UUPA. On March 4, 1994, Mr. Samoel Sugito submitted an application for the release of 2 (two) plots of land for the right of the TNI AD Occupation by attaching HGB Number 29 and Survey Letter 1754/1924 with an area of 4,790 M² (Repiter House Jl. hastorenggo No 1) and HGB Number 6 of 1940 with an area of 2,240 M² (Villa Hastorenggo 2 Jl Pramuka No. 56), On April 11, 1994 Danrem Letter 072/Pamungkas Number B/250/IV/1994 dated April 11, 1994 regarding the report the data of the land/building of the Korem 072/Pmk mess on Jl. Hastorenggo 2 and Jl. Pramuka 56 has transferred its ownership to a.n. Sdr.

Samuel Soegito which was submitted to the Pangdam IV/Dip.

Then, on December 29, 1994 the Pangdam IV/Dip issued a letter to the Kasad with Number B/1260/XII/1994 dated December 29, 1994 regarding the application for a principle permit for the release of land and buildings for the TNI Army Occupation at the Repiter House on Jl. Hastorenggo No 1 and Jl. Hastorenggo 2, Kaliurang Yogyakarta and then the Chief of Army Staff issued a Kasad Letter to the Pangdam IV/Dip with Number B/205-04/23/207/Set dated February 9, 1995 concerning the principle permit for the release of land and TNI AD Occupation building at the Repiter House on Jl. Hastorenggo No 1 and Jl. Hastorenggo 2, Kaliurang Yogyakarta on the condition that Mr. Samuel Soegito compensate the TNI AD. The compensation has been built in the form of 2 (two) official houses located on Jl. Watugong Semarang, Central Java and used to renovate Makorem 072/Pamungkas Yogyakarta which in the work of the two projects cost Rp. 160,000,000,- (one hundred and sixty million rupiah) and all of them have been realized on March 28, 1995 through the Decree of the Pangdam IV/Dip with Number Skep/79/III/1995 to transfer/return the land/building The occupation of the Indonesian Army at the Repiter House on Jl. Hastorenggo No 1 and Jl. Hastorenggo 2, Kaliurang Yogyakarta to Mr. Samuel Soegito and the order to remove the land/building from the list of Indonesian Army Occupation.

That in that incident a question arises "why did the first party as a third party only receive an order from Danrem 072/Pmk to carry out management between Wisma Hastorenggo I and Wisma Hastorenggo II in Kaliurang, but now wants to control all assets that were initially only entrusted to be managed by Mr. Samuel Soegito to have SHM and HGB Certificates for the land and buildings which should be the land and buildings of the TNI AD Party that needs priority is given to the ownership of the land and building assets that he has controlled since 1953 by the Indonesian Army based on the lease agreement letter with Mr. Yap Kie Djiang with Number: 410/B.I/pdm I/13/53 dated August 1, 1953 signed by the Commander of the Sleman Regency Garrison in this case representing the Indonesian Army and Mr. Yap Kie Djiang based on the principle of social function in article 6 of the UUPA stating that all land rights have a social function.

Until now, the Kodam IV/Dip is still trying to maintain the land and building assets The question is why at that time the Kodam IV/Diponegoro approved the letter of application submitted by Mr. Samuel Soegito to the TNI AD for the release of land and building assets of the TNI AD Occupation instead of the building that was built by the TNI AD in this case the TNI AD is the legal owner of the building based on the principle of horizontal separation (Andari & Purwoatmodjo, 2019). That is, whoever erects a building on land that does not belong to him, the building remains the property of the person who built it. Legal protection for the parties to the application of the principle of horizontal separation in the transfer of land rights is given to parties in good faith against the ownership of land and/or buildings. The criteria for good faith in the control of land and/or buildings are shown by mastery based on the norms of propriety and justice, not encroaching on the rights of others, not causing losses to other parties, paying in full the burdens required when controlling land and/or buildings, always acting with caution according to reason and common sense, and meeting the standard measures of behavior desired by the community.

The existence of a principle permit for the release of TNI AD Occupation land/building assets issued by the Chief of Army Staff of Kodam IV/Dip did not remove the TNI AD Occupation land/building from the TNI AD Occupation register, his party could not explain publicly why at that time the application letter from Mr. Samuel Soegito was approved so that the principle permit for the release of TNI AD Occupation land/buildings to the Repiter House on Jl. Hastorenggo No.2 RT.8 Kaliurang Village Hargobinangun, Pakem, Sleman, Special Region of Yogyakarta Province and Villa Hastorenggo 2 on Jl. Pramuka No. 56 RT.8 Kaliurang, Hargobinangun Village, Pakem, Sleman, Special Region of Yogyakarta Province from the Chief of Army Staff and why the Kodam IV/Dip has not removed the land/buildings of the TNI AD Occupation from the TNI AD Occupation register. (The answers to these questions require approval from the Pangdam IV/Dip).

The answer to the above question is certainly supported by the results of the research team formed if the release of assets to the land/buildings of the TNI AD Occupation will be carried out. In an effort to overcome future problems (*Ius Constituendum*), the TNI AD can carry out the stages in the release/return of occupied land assets. Kodam IV/Dip can apply to solve the problem of the release of occupied land as happened in the Kodam I/BB area. There is an application from the Sultanate of Deli for the return of the occupied land of the TNI AD c.q. Kodam I/BB covering an area of 20,138 M2 located on Jl. Bundar, Kel. Pulo Brayan Bengkel, Medan Prov. North Sumatra by the Sultanate of Deli to Kodam I/BB based on the Review Decision (PK) of the Supreme Court of the Republic of Indonesia Number 341 PK/Pdt/2017.

5. Conclusion

5.1 Conclusion

Based on the results of the research and discussion, the conclusion of this thesis is as follows:

1. The legal basis of Occupation by the Indonesian National Army (TNI AD) on the land/building under its control is the data on land assets and buildings of Mess Korem Hastorenggo 1, Hargobinangun, Sleman with an area of 9,902 M2 with the status of Occupation which is **the Sultan of Ground with a Registration Number 3073233** used as a Villa with the name of Kaliurang guesthouse and controlled by Mrs. Tuti (daughter of the old waiter a.n. Mr. Gito alm.) who has been certified HGB and Mess Korem Hastorenggo 2, Hargobinangun, Sleman with an area of 2,042 M2 has the status of Occupation which is the **Sultan of the Ground with a 30732034 Registration Number** which has been certified SHM Number 422 and has Buttons Fiber as the Dede Keprabon Land used by the institution.
2. Release of rights carried out by the Indonesian National Army (TNI AD) over land/buildings Occupation Implementation of the return of land and building assets located on Jl. Bundar, Kel. Pulo Brayan Bengkel, Medan City, Prov. North Sumatra is guided by the Instruction of the Commander Number Inst/02/VI/1989 dated June 6, 1989 *jo* Kasad Telegram Letter Number ST/766/1984 dated June 23, 1984 *jo*. Kasad Telegram Letter Number ST/99/2015 dated January 14, 2015 *jo*. Kasad Telegram Letter Number ST/1130/2020 dated April 20, 2020 concerning the Arrangement and Control of Land Assets and Occupied Buildings, the essence of which states as follows:
 - a. In principle, the return of land and/or occupation building assets can be carried out if the legality of ownership is legally valid and must be approved by the Head of the Army and submitted through the service area (Kodam);
 - b. Formation of a team to carry out research on the assets to be returned; and
 - c. There is compensation for the return of land assets and/or occupation buildings.

5.2. Suggestions

Based on the results of the research and discussion, the suggestions from this thesis are as follows:

1. That for the submission of the release of Occupation Assets to the Chief of Army Staff by the Municipality/Kodam, the Pangdam should first trace the history of the Occupation land by carrying out licensing checks (fiber kekancingan), coordination with the relevant parties in the Occupation/Lease Agreement (*vide*. Lease agreement between the TNI AD and Mr. Yap Kie Djiang based on Number: 410/B.I/pdm I/13/53 dated August 1, 1953) and the Ministry of Agrarian and Spatial Planning/National Land Agency (ATR/BPN) and checking assets in the list of State assets in BMN so as to minimize errors in the release of occupational assets.
2. Prior to the implementation of the release of rights carried out by the Indonesian National Army (TNI AD) over the land/buildings of Occupation in the Kodam IV/Diponegoro area, an Assistance and Verification Team should be formed based on the Kasad Order, which consists of personnel from:
 - a. Army Inspectorate General.
 - b. Army Logistics Staff for Land.
 - c. Army Zeni Center
 - d. Army Finance Directorate.
 - e. Army Legal Directorate.
 - f. Kodam personnel appointed by the Pangdam.

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