

LEGAL REVIEW OF BUILDING APPROVALS IN CIREBON REGENCY AFTER THE ENACTMENT OF THE JOB CREATION LAW

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Abstract: *The enactment of the Job Creation Law with the Omnibus Law method has changed many regulations, one of which is Law Number 23 of 2002 concerning Buildings and their derivatives. This has an impact on the Building Permit (IMB) which has now changed to a Building Approval (PBG) along with all its processes and requirements in the hope of accelerating development and economic growth in accordance with the ideals of the Job Creation Law. The method used in this study is the rule of law or normative juridical, which is research that puts the law as a basic reference in forming legal norms. In his findings, the Building Competition in Cirebon Regency still has obstacles that in its implementation more or less affect the smooth development and investment for the Cirebon Regency area.*

Keywords: *Legal Studies; Building Approvals; Cirebon Regency; Job Creation Law.*

I. INTRODUCTION

Every human being is faced with 3 (three) basic needs to obtain a prosperous life, namely the need for food, clothing and boards. Every community has the right to build to meet the needs of its boards. However, the fulfillment of these rights must be accompanied by the fulfillment of procedures and obligations by the community who will erect buildings. As it is known that Indonesia is a country of law, every implementation of buildings, both houses and other buildings, must follow the laws and regulations that are the basis for laws, policies, directions, and guidelines as well as as a solution to problems, cases, and disputes that occur in their respective regions. The implementation of buildings is development activities that include the process of technical planning and construction implementation, as well as utilization, preservation, and demolition activities (Law Number 28, 2002).

Basically, everyone who will erect a building is required to have a Building Approval as the basis for the legality of the building to stand. Building Permits (IMB) that have been replaced with Building Approvals (PBG), through Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 16 of 2021 are issued in accordance with the functions and classifications of buildings applied for in the application for Building Approval based on the level of fulfillment of administrative requirements and technical requirements of the building. As stated in Article 7 paragraph (1) of the Law on Buildings: "Each building must meet administrative requirements and technical requirements in accordance with the function of the building". Basically, erecting a house building is a dangerous act, this is because a house building is a place for humans to carry out their daily activities, both at home and in the office. The hazard criteria arise when the building has certain conditions so that it does not collapse and harm people in or around it.

A building permit is directly related to the scope of spatial planning, especially in terms of the use of the building and the type of permit owned. The Regency/City Government, in this case, which has the authority to issue licensing approvals related to the building in question, is also obliged to pay attention to several existing feasibility principles, excellent licensing services and the implementation of good government actions. Building Approval (PBG) is a licensing arrangement that regulates buildings that must be erected, in this arrangement the building must meet the technical standards that have been set. The technical standards in question are in the form of planning and designing buildings, implementation and supervision of building construction and building utilization. Based on Government Regulation Number 16 of 2021 concerning Regulations for the Implementation of Law Number 28 of 2002 concerning Buildings, in Article 1 number 17 it is stated that Building Approval (PBG) is a permit given to building owners to build new, change, expand, reduce and/or maintain buildings in accordance with building technical standards.

If in the implementation of building construction there is a discrepancy with the Building Approval (PBG) and/or causes a negative impact on the environment, the implementation supervisor is obliged to temporarily stop the implementation of the building and report to the relevant technical office. However, in reality in the field, many Building Approval (PBG) holders ignore the provisions contained in it.

From this description, what will be discussed in this article is the form of centralization in the issuance of Building Approvals (PBG) and the limitations of local government authority after the enactment of Law Number 6 of 2023 concerning the Determination of Perppu Number 2 of 2022 concerning Job Creation into Law, so that the building licensing process as one of the requirements for business and investment licensing continues to run smoothly, to improve economic development in Indonesia.

II. RESEARCH METHODS

This research uses the positivism paradigm (Ulber Silalahi, 2009). The approach method used in this study is a normative juridical approach (Ronny Hanitijo Soemitro, 1983). The sources of legal materials in the research can be distinguished in the form of primary legal materials and secondary legal materials (Ronny Hanitijo Soemitro, 1983). In this study, the method used in the data collection process is by means of literature study, review of scientific papers and relevant official documents that are researched and identified as a complete unit. The data that has been obtained from the results of this study is compiled and analyzed qualitatively, then the data is descriptively described to obtain a picture that can be understood clearly and directed to answer the problems studied (Mukti Fajar and Yulianto Achmad, 2010).

III. DISCUSSION

1. Kaijan Against Law Enforcement in Violation of Building Approval (PBG) After the Establishment of the Job Creation Law in Cirebon Regency

Law enforcement is carried out by the Cirebon Regency Civil Service Police Unit (Satpol PP) against parties who violate the provisions of the Building Approval (PBG). Law enforcement is carried out based on Government Regulation of the Republic of Indonesia Number 16 of 2021 concerning Implementation Regulations of Law Number 28 of 2002 concerning Buildings. Law enforcement efforts that have been implemented so far against parties who violate the provisions of the Building Approval in Cirebon Regency so far in the form of criminal sanctions, administrative sanctions, sometimes can also be applied at the same time administrative sanctions and criminal sanctions.

The basis for the application of administrative sanctions and criminal sanctions is applied simultaneously or the accumulation of sanctions is because they meet the requirements for administrative sanctions and criminal sanctions. According to Philipus M. Hadjon, the joint application of sanctions between administrative law and other laws can occur, namely internal accumulation and external accumulation. External Accumulation is the application of administrative sanctions along with other sanctions, such as criminal or civil sanctions. Criminal sanctions can be applied together with administrative sanctions, meaning that the principle of "*nebis in idem*" is not applied, which means that regarding the same case, regarding the same matter should not be tried a second time. In administrative law with criminal sanctions, there are differences in nature and purpose.

The difference between criminal sanctions and administrative sanctions is that if the target administrative sanction is aimed at the act, the nature of the *administrative sanction is reparatoir-condemnatoir* (restoration of the original state and providing punishment) the procedure is carried out directly by the government or State Administration officials without going through the judiciary. Meanwhile, criminal sanctions aimed at the perpetrator, *condemnatoir*, must go through judicial procedures. The internal accumulation is the application of two or more administrative sanctions together, for example the termination of services and/or the revocation of permits and/or the imposition of fines (M. Hadjon, Philipus, et al, 2005).

In internal accumulation, the *Nebis Vexari* principle applies, the *nebis vexari* principle is a principle known in administrative law. Legal principles are basically a broad basis for the issuance of a legal regulation. This principle requires that violations of legal provisions are not allowed to impose administrative sanctions cumulatively with the same weight Administrative sanctions applied by officers of the Cirebon Regency Civil Police Unit (Satpol PP) are given a warning letter 1, warning letter 2, warning letter 3, which is intermittently for 7 days. Letter of temporary dismissal/permanent implementation of activities for those who do not have a Building Approval. For those who already have a

permit but are not compliant, the licensing office will issue a letter of freezing the Building Approval. If you do not have a permit, sanctions can also be applied such as revocation of the Certificate of Functional Fitness (SLF), as well as a demolition order.

The application of administrative sanctions for building violations, namely demolition orders, has not been implemented in 2023 to 2024 due to limited personnel and budget. The role of the community is very important in the implementation of supervision and control of buildings because if the community behaves in accordance with the rules, the implementation of the building will run in an orderly manner. In addition, the role of the community is also needed in providing information in the form of reports about building violations that occur around the environment and harm the surrounding community. The public can report directly to the Public Works and Spatial Planning Office (PUTR) of Cirebon Regency. However, in addition to awareness from the community to comply with the rules in carrying out development, in addition to that, it is important to have firmness from the Public Works and Spatial Planning Office (PUTR) of Cirebon Regency, especially in applying administrative sanctions to building violations that occur in order to provide a deterrent effect to the violating community and then encourage the violating community to immediately correct their mistakes.

2. A Study on the Authority of the Regional Government of Cirebon Regency in the Supervision of Building Approval (PBG) in Cirebon Regency

The implementation of supervision by the Cirebon Regency Regional Government over buildings in the Cirebon Regency area is the duty and authority of the Cirebon Regency Investment and One-Stop Integrated Services Office (DPMPTSP) along with other instruments, namely the Cirebon Regency Public Works and Spatial Planning Office (DPUTR) and the Cirebon Regency Civil Service Police Unit (Satpol PP). Continuous supervision is considered important considering that the safety of building structures can have an impact on human safety which is not in accordance with mature calculations as a result of which is certainly detrimental to all parties, on the other hand the role of the Cirebon Regency Regional Government is also required to carry out good motivation in the form of coaching, including by taking action for building owners who do not comply with applicable regulations. Government supervision is a technique that seeks to avoid deviations carried out by the community so that an activity can run in accordance with the government's plans and goals. Based on applicable regulations, every building built must have a Building Approval, so that the building layout is in accordance with the design carried out by the government, so that the building layout built is synergistic and orderly. As an instrument appointed by the Cirebon Regency Regional Government in supervising the existence of buildings, the Investment and One-Stop Integrated Services Office together with the Public Works and Spatial Planning Office, as well as the Pamong Praja Police Unit as the executor in enforcing regional regulations in synergy related to the order of buildings that do not meet the requirements of applicable laws and regulations.

Supervision is a form of *checks and balances* that aims to avoid various irregularities in the implementation of policies. In order for the implementation of the building to run in an orderly manner, supervision activities must be carried out. To be able to find out if a violation occurs and immediately follow up.

Permission is an approval from the ruler based on laws and regulations to deviate from the provisions of the prohibitions of laws and regulations in certain circumstances. If you already have a permit, you can do certain actions that are prohibited if you do not have a permit. However, in reality, in Cirebon Regency there are still people who do not take care of their building permits. Starting from the beginning of the construction period, even until the building has been erected, there are still people who do not have the awareness to

immediately take care of permits. Regarding people who do not have permits, there are many in Cirebon Regency, where because there are still thick customs and there are still many customary lands, there are still many people who are reluctant to comply with the rules, namely by taking care of their building permits.

Regarding the active role of the community in supervising buildings in Cirebon Regency, Government Regulation of the Republic of Indonesia Number 16 of 2021 concerning Implementation Regulations of Law Number 28 of 2002 concerning Buildings Article 74 paragraph (1) has regulated the form of community participation, which is as follows:

- a. Monitoring and maintaining the order of the implementation;
- b. Providing input to the government and/or Regional Governments in improving regulations, guidelines and technical standards in the field of buildings;
- c. Convey opinions and considerations to the authorized agencies on the preparation of building and environmental plans, technical plans for certain buildings, and implementation activities that have an important impact on the environment; and
- d. Carry out a representative lawsuit against buildings that disturb, harm, and/or endanger the public interest.

Based on this, it can be concluded that the collective role between the Cirebon Regency Regional Government and the community in carrying out supervision as regulated in Government Regulation of the Republic of Indonesia Number 16 of 2021 concerning Implementation Regulations of Law Number 28 of 2002 concerning Buildings, not only has a good impact on the optimization of supervision but also on increasing public awareness. So that the supervision mechanism is not only about repressive actions in cracking down on violations in the Building Approval, but also as a preventive measure to minimize violations of the Building Approval itself. So the results of the supervision that have been described above, are actually in line with the purpose of the supervision, which is as follows:

- 1) Ensure that a policy runs as planned;
- 2) Ensuring that a policy runs in accordance with mutually agreed principles;
- 3) Finding errors that cause failure in the implementation of a policy so that the error can be corrected and/or so that the same mistake is not repeated; and
- 4) To find out whether a policy is effective or not, so that decision *makers* can make improvements to obtain efficiency.

IV. CONCLUSION

Based on the results of the research and discussion, it can be concluded that the enforcement of administrative sanctions to buildings is only in the form of stopping project work with the issuance of a warning letter by the Public Works and Spatial Planning Office (PUTR) of Cirebon Regency. Other administrative sanctions in the form of demolition are not carried out, this is because there is no time limit and legal certainty when the building must be demolished, as well as the availability of human resources and budget. The Public Works and Spatial Planning Office (PUTR) of Cirebon Regency did not show firmness and coercive efforts by the government in enforcing administrative sanctions in the form of demolition. The results of administrative law enforcement will not be able to fulfill one of the goals of the law, which is to provide legal certainty to the community.

The Cirebon Regency Regional Government in supervising buildings uses its authority in accordance with the law. Some of the factors that are obstacles in the supervision and control of buildings by the Cirebon Regency PUTR Office are the absence of regional regulations regarding Building Approval (PBG), the absence of an inspector appointed by the Cirebon Regency PUTR Office, another obstacle is the lack of awareness of the people of

Cirebon Regency to take care of building permits and commit violations and not heed the reprimands and sanctions given by the PUTR Office.

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