



Providing Housing For Low-Income People

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ABSTRACT

Indonesia has committed to realizing the construction of public housing for all people. The commitment is embodied in juridical operations which are translated into the form of government legislations. It is not only how people build housing, but also how to open the widest access for the people to have a home. Housing and settlement development is intended to accelerate the fulfillment of the needs of decent and affordable housing for all segments of society (adequate shelter for all) and simultaneously achieve sustainable human settlements. There are still many Indonesian people who have low income who are not able to get decent housing. This problem happens because of limited sources of public funds to buy a house and land. In the field of property, land does not only serve as a building site, but it has become a business commodity. With the adoption of the principle of horizontal separation for providing house, it will be easier for the government to provide home for low-income people, because they can have their own home without having to buy the land. However, this idea may not be accepted by the public, because they still perceive that a house is not only a place to stay but it should also blend with the social environment to allow people to socialize and run social traditions.

Keywords: Low-Income People, Legal System, Horizontal Separation Principle, sustainable human settlements, property.

INTRODUCTION

As a developing country, Indonesia is facing numerous problems in improving the prosperity of its people. One of these problems is the provision of housing for low-income people. Based on data from Ministry of Public Housing, it is estimated that there are about 7.2 million households residing in improper houses while data from Statistics Indonesia (BPS) show that there about 13.6 million households reside in houses that do not belong to themselves (rent houses). This backlog is getting worse if it is not seriously and immediately dealt with. This is true as people with this housing problem are low-income people (LIP). The following data from BPS have made it worse. Data of BPS show that, compared to other commodities, house ownership give significant effect on the increase in poverty line. House ownership can have its share of up 10.32% in urban areas and 7.16% in rural areas to poverty line. In March 2011-March 2012 period, the poverty line increased by 6.40% from Rp233.740 to Rp248.707 per capita per month.

Many factors have been indicated as hampering or inhibiting the acceleration of housing development for LIP. These include permits, land, fund, infrastructure, taxes, technology, consumer protection, and the complexity of overlapping housing rules and regulations. However, problems related to land were the ones analyzed in this study as discussion about housing could not be taken away from land on where housing was erected.

The main problem receiving less attention is public limited fund sources that they can use to buy houses and land. In property field, land does not function as a building site only, but it has also become a business commodity. In Article 48 paragraph (1) Law No 28 Year 2011 on Apartment (*Rumah Susun=Rusun*), it is mentioned that as a proof of apartment unit ownership on a state-owned property in

the form of land or on a waqf land by renting, a Certificate of Building Construction Ownership (*SKBG*) of Apartment Unit (*Sarusun*) is issued. The substance of this article adopts the idea that *rusun* ownership is separated from land ownership and that building construction ownership is given through the issuance of *SKBG*. In legal theory, this understanding is known as horizontal separation principle that recognizes separation between ownership of land and ownership of good on it. The adoption of this principle has reduced the burden of LIP in term that they can own a house without having to buy the land. It is the obligation of the government to provide lands on which housing for LIP to be constructed.

METHODOLOGY

The study was conducted in two provinces, West Java and DKI Jakarta. Two regencies/cities in each province were purposively selected. This selection was based on the following considerations: people in these regions were LIP and the selected regions represented three characteristics, namely urban, rural, and semi-urban areas.

A qualitative and descriptive analysis approaches were used. Data were collected through study of literatures, in-depth interviews, participant observations, focus group discussions, and questionnaire distribution. Questionnaire technique was used to obtained wide data on people (LIP) perception on the need of owning a house which is economically, socially, and technically decent. Samples were LIP who lived in 4 clusters: Bogor City, Bogor Regency, Depok City, and North Jakarta City. Samples were then purposively selected. Seventy-five respondents were chosen from each cluster making up a total of 300 respondents representing 4 clusters.

Qualitative data were interpreted and constructed based on the subjective perspective of the research team. Stressing was given to the description, understanding, and interpretation on various phenomena about the legal system of house ownership for LIP. Reflection on data obtained was done to map out the housing policies, problems in, and need assessment on the LIP need over housing which is technically, economically, and socially decent.

Who are Low-income People?

Low-income or poor people is defined as a person/family/group who already have a clear or certain occupation or income source yet are economically incapable as their income is not enough to have their basic needs including clothing, food, and housing fulfilled. In the Regulation of Directorate General of Treasury Number Per.62 /p132011 on The Procedures for the Disbursement of Stimulant Grant of Self-support Housing for Low-income People, it is mentioned in Article 1 number 3 that low-income people, thereafter called LIP, are people with so limited purchasing power that they support from the government to have decent housing. Meanwhile, in Ministry of Public Housing Regulation Number 05/Permen/M/2006 on Support of *KPR/KPRS* Insurance for the Development of Healthy Modest Housing, Article 1 number 5, it is mentioned that LIP are families/households with income less than two million rupiah per month.

Another definition of LIP is also found in Regulation of Ministry of Public Housing the Republic of Indonesia (*Permenpera*) Number 13 Year 2012 on the Provision of Housing through Prosperous House Ownership Credit/Leasing with House Leasing Liquidity Support. In Article 1 number 11 of this regulation, it is mentioned that LIP are people with so limited purchasing power that they need to get a government support to own a house. Further, in this *Permenpera*, LIP are divided into two groups. The first group is LIP with fixed or unfixed income of at most Rp3,500,000.00 (three million and five hundred thousand rupiah) per month. The second group is LIP with fixed or unfixed income of at most Rp5,000,000.00 (five million rupiah) per month. A little bit different standard is given by BPS which measures poverty from income per capita. Using this criterion, it is mentioned that one is categorized as poor when he/she has an income per capita under the poverty line. As per March 2012, BPS set a poverty line of Rp248,707 per capita per month. Low income of LIP does not allow them to acquire housing facility which is technically, economically, and socially decent. This might happen because land legal system in Indonesia does not recognize the horizontal separation principle. A building and land have to be owned by a single ownership.

How the Law Sees the Possibility of Housing Provision for Low-income People

Provision of land for housing and residences is the responsibility of central and local governments. This is in accordance with Article 105 Law Number 1 Year 2011 on Housing and Residence Areas which reads as follow: paragraph (1) central and local governments, in accordance with their authorities, are responsible for the availability of land the development of housing and residential areas, and paragraph (2) the availability of land mentioned in paragraph (1) including its stipulation in the regional spatial plans is the responsibility of the local government. The main problem that is often overseen by the government to overcome the backlog is public limited fund sources that they can use to buy houses and land. In the field of property, land does not only serve as a building site, but it has become a business commodity. Land has become a profit motive. Prices of land in urban areas keep increasing in an almost uncontrollable way. In the golden triangle area in Jakarta, for example, prices of land are above Rp30 million/m² in ring-1, about Rp10-20 million/m² in ring-2, and Rp3.5-8 million/m² in ring-3. If the prices of land are extremely high, then how much will be the prices of land in housing and real estate areas within those rings? It will be absolutely unaffordable for most people as they have to buy the house as well as the land.¹

With the adoption of horizontal separation in Apartment Law 2011 (*UURS* 2011), it would be easier for LIP to make their dream of owning a decent house a reality. Land provision is done by local government and fund is provided through CSR of state-owned enterprises (*BUMN*) or the State Budget (*APBN*) or by a rent scheme. The conception of housing legal development can find a more conducive and innovative solution from horizontal separation principle embraced by customary laws, which are sources of the land law, by separating the law of building as a no-land good. This is done by still keeping the nationality principle. This concept is followed by the issuance of a certificate as an evidence of ownership rights over a house or building construction which separated from the land, the development of cadastre of houses and building constructions by authoritative institutions in accordance with the applicable laws and regulations, and a wider regulation about legal relation between ownership of land and ownership of house or building construction. An example of the latter is legal development of the regulation of a relationship that occurs as a result of land and building utilization by non owners such as the one found in a rental or BOT scheme.

Mariam Darus Badruzaman gives an example of the use of horizontal separation principle in Basic Agrarian Law Act (*UUPA*) as follow: “UUPA does not embrace an attachment principle but horizontal separation taken from the Customary Law. The sale and purchase of rights over a land does not automatically include buildings and plants on it. If building and plants are to be included, it has to be clearly stated in the deed of sale and purchase.” Long before this, Ter Haar, a student of Van Vollenhoven, stated that rights over house and over planted plants are basically separated from rights over land on where those goods exist. Therefore, horizontal separation principle can be perceived as a doctrine that separates the ownership of land from the ownership of goods attached to it. This includes land transaction or land sale and purchase.

As a matter of fact, there are also some problems in the application of horizontal separation principle in customary law. In customary law, the application of this principle is restricted by certain things. Iman Sudyat inventories these restrictions as follows.

- 1) Transaction of yard usually includes house and plants. This make the house and plants, in addition to the yard, as the object of the sale and purchase. Besides, people may also trade the house and plants separated from the land.
- 2) Sometimes, rights over plants (and over house) come together with rights over a piece of land related to the plants and house.
- 3) Rights over land is not separated from rights over a concrete house which is not movable without any damage (different from bamboo or wooden house).

With these restrictions, the following uncertainties might occur.

- 1) Whether a house should be considered as a concrete house or not.

- 2) How big is the size of land that should be considered as a house yard; yet all of these do not nullify the point.
- 3) In a relation between rights over a house and plants and rights over land in a royal atmosphere, there is an unusual custom that rights over land is called the King's right and the land is called a King's land (in Javanese: *Keagungan Dalem*). Yet, individual rights over land, in fact, is recognized as such, and they do it by saying it as 'rights over house and plants. The authority of the government to take actions and burden the restrictions of rights is done in such a way as if it is based on the King's rights over land, yet virtually is done based on the King's power to govern.

It can be seen from the above explanation that as development keep occurring in the society, the horizontal separation principle is not strictly applied as shown by the recognition that a concrete house is considered different from a bamboo or wooden house that can be removed away. However, this does not nullify the principle that land and other goods on it are separated. The application of horizontal separation principle at present time, especially in Indonesia, is regulated in and refers to *UUPA* which is still enacted. However, in practice, this is not totally applied as articles about vertical attachment principle in Indonesian Civil Code are still embraced even though juridically they should be repealed as they are already differently regulated in *UUPA*. However, if *UUPA* should be the one to be referred to, the application of horizontal separation principle should be applied consistently. This is really important as there is an urgent need to fulfill.

Need for Technically Decent Housing Provision

Technically, a house has to be built to fulfill people need seen from numerous basic factors related to human needs. One of the most basic human needs is physiological need (see Maslow *in* Gibson, 1997:97) including shelter. The shelter should be the one that give safety and comfort and bring social benefits for the family as well as the neighborhood. Giving safety and comfort means that the house should be able to be used to protect its dwellers from various kinds of dangers including the collapse of the house itself. Therefore, the house should be built as a strong and durable structure as a strong and durable house gives its dwellers a safe and comfortable feeling. Therefore, there are some criteria of a decent house.

Technically, a shelter or a house has to meet a standard quality as a decent house. In general, LIP want to have a house building which is technically decent or meet the following criteria. It has to be a simple house with closed room, an open but roofed room, and a bathroom facility. The type of the house should be 21/60, 36/72 type, or erected on 100 m² of land. The building should have a strong construction to protect the dweller from the danger of building collapse. The house building should be constructed by using red bricks. In short, a strong house means that the house should be built with a strong construction so that it can protect the dwellers from the danger of building collapse and provide comfort to the dwellers during their stay in the house.

The house has to be durable and strong. Durability means that the house should be long lasting. For durability, the materials used should meet the quality standards and the construction work is done following the appropriate procedures. Besides, building maintenance and control have to be done in a regular basis especially on parts that need replacement or rejuvenation. There were different orientation between respondents in Bogor City and Bogor Regency and those in Depok City and North Jakarta City. In Bogor City and Bogor Regency, respondents tended to choose durable and strong buildings although they were expensive. Respondents in Depok City and North Jakarta City, on the contrary, preferred buildings which were durable, strong, and affordable. This difference might be caused by different prices of buildings in those areas. This difference in prices was caused by the difference in land value. For example, in an advertisement, an office building and 450 m² of land in Penjaringan Jakarta Utara (Pantai Indah Kapuk) was sold for Rp144,000,000,000 or Rp320,000,000 per m². In Kelapa Gading, North Jakarta, however, a building of 25,000 m² was sold for Rp16,250,000,000 which was equal to Rp650,000 per m² only. Another 540 m² of land in Kelapa Gading was sold for Rp7,500,000,000 or Rp13,888,889 per m². These different prices were subject to the differences in building quality and location. Based on the information from Urbanindo (www.urbanindo.com/) as per 14 May 2014, the price for all properties

was Rp24,395,458 per m², for house only Rp28,250,413 per m², and for land only Rp17,193,170 per m². Compared to North Jakarta City, Depok City had cheaper prices of land and house. In Depok City, a house sized 75 m² with a land sized 160 m² was sold for Rp475,000,000 which was equal to Rp2,968,750 per m². Another house sized 1126 m² with a land sized 2860 m² was advertised for sale for Rp10 billion or equal to Rp3,546,099 per m². On average, based on the information from Urbanindo (www.urbanindo.com/) as per 14 May 2014, the price for all properties was Rp5,212,213 per m², for house only Rp5,410,326 per m², and for land only Rp1,884,395 per m².

In Bogor Regency, a house sized 48 m² with a land sized 84 m² was advertised for sale for Rp385,000,000 or equal to Rp5,000,000 per m². Based on the information from Urbanindo (www.urbanindo.com/) as per 14 May 2014, the price for all properties was Rp4,157,217 per m², for house only Rp5,013,481 per m², and for land only Rp1,265,301 per m². In Bogor City, a house sized 21 m² with a land sized 50 m² was advertised for sale for Rp140,000,000 or equal to Rp3,000,000 per m². Based on the information from Urbanindo (www.urbanindo.com/) as per 14 May 2014, the price for all properties was Rp4,157,217 per m², for house only Rp5,013,481 per m², and for land only Rp1,265,301 per m². This showed that there was no significant difference in prices of land and house in Bogor City and Bogor Regency.

Another criterion is that a house should look beautiful and comfortable to reside. Beauty is an element that can add more values to a house so that the dwellers feel proud and have higher self-esteem by living in it. This is usually taken care of by people who can afford a house whose condition is higher than a minimum standard for a shelter. To make a beautiful house, the proportion between structure and room organization has to be carefully considered. Sanitation and cleanliness must be the most important element. Health element is important to consider as health is also a human basic need. Therefore, a building plan has to consider the cleanliness and health of its environment. Attention has to be given to the following factors: sewerage (sanitation), rubbish disposal, lighting, aeration, and room temperature and humidity.

For LIP, the expected housing should have at least 3 closed rooms for a bedroom, a restroom, and a multifunction room that can function as a living room, a family room, or even a dining room and kitchen. As for the Minimum Space Standards, it can be calculated based on space requirement for a person to do basic activities inside the house. These activities include sleep, eat, work, sit, take a bath, defecate and urinate, wash, cook, etc. Studies found that a minimum space requirement is 9 m² per person for a house with average ceiling height of 2.80 m.

Simple, healthy housing allows its dwellers to live a healthy life and do daily activities in a decent way. Minimum room requirement for simple, healthy housing is determined by taking into account the following factors: space requirement per person, space requirement per Head of Household (HH), building space per HH, land requirement per building unit, health and comfort need, house lighting requirement, and sunlight access as a day natural lighting.

Standards of decent housing according to the UN Universal Declaration of Human Rights in UNESCAP (2008) are:

1. Basic service and infrastructure: A dwelling has to have facilities to provide health, safety, comfort, and supporting facilities for clean water, energy source for cooking, heating, lighting, sanitation, garbage disposal, storing, and emergency condition.
2. Affordability: A decent dwelling should be affordable so that every household can have it without reducing its ability to cater for the need.
3. Livable: A dwelling has to be able to protect its dwellers from cold, heat, rain, or other health threats and to provide enough space for the dwellers.
4. Accessibility: Everyone including marginalized people has the right to have a decent house. Access should be given to marginalized people to a dwelling place and this access should prioritize their rights for land allocation and land use plan.
5. Location: Housing should be located in a place with access to working place, health service, educational service, child care center, and other social facilities. This requirement applies in both urban and rural areas. It should also be far from polluted area or source of pollution.

6. Cultural reflection: A housing area should be built in such a way that reflect the culture embraced by the dwellers but at the same time it should also adopt the use of modern facilities.

Compared to the requirements set by UN, the kind of housing expected by LIP mentioned above is very modest. This modest expectation might reflect the problems faced by them. Poverty is the main problem faced by LIP that makes most LIP live in indecent housing. So complicated is their poverty problem that they do not even dare to dream about having a decent house.

Public Perception on Socially Decent House

According to the UN Universal Declaration of Human Rights as stated in UNESCAP (2008) a decent housing has to be located in a place with access to working place, health service, educational service, child care center, and other social facilities. It also has to reflect the culture embraced by the dwellers while at the same time it should also adopt the use of modern facilities. This indicates that housing has to have a social decency.

In the context of housing provision for LIP, social decency is measured by using criteria proposed by LIP themselves as reflected in respondent responses/answers. The first requirement is environment. Most respondents in Bogor City, Bogor Regency, Depok City, and North Jakarta City (71.28%) stated that in their concept, housing should consist of houses which are closed to each other with a close relationship between dwellers. However, 27.30% respondents stated that they should maintain a reasonably distant but harmonious relationship in their neighborhood. Based on the perception of respondents, it could be stated that a socially decent housing for LIP was the one that could provide a neighborhood environment where they could have a close relationship with others and was able to accommodate a nuclear family consisting of father, mother, and their children.

In addition to environmental requirement, a specific requirement as part of the cultural values is also important factor for a housing. In general, each area has specific requirements for LIP housing. These include cleanliness as the main factor affecting comfort, possibility of using the house for conducting social events to maintain good relationship in the neighborhood, land certificate completeness, closeness to religious activity facilities (e.g. Mosque), having a distance from either a family or public grave. Other requirements are preservation of religious values, manners, and religious relationship by conducting common recitation. Possibility of developing local culture, respected and tolerant neighborhood relationship, free from flood and crimes, conformity of house design with local Betawi traditional house design, clean physical environment, big number of residents, single ethnic neighborhood to avoid cultural class, and custom conformity are some other requirements.

Every area had its own specificities making it different from other areas. Respondents in Bogor City mostly (81.33%) stated that there were no specific requirements, but 18.67% of them proposed the following requirements.

- a. Cleanliness as the main factor affecting comfort.
- b. Possibility of using the house for conducting social events to maintain good relationship in the neighborhood.
- c. Good manners in the environment.
- d. Tolerance with relatives and neighbors.
- e. Strong religious belief in the neighborhood.
- f. Land certificate completeness
- g. Muslim people placement in Muslim neighborhood.
- h. Closeness to religious facilities (e.g. mosque).
- i. Having a distance from either a family or public grave.
- j. Preservation of religious values and manners.
- k. Possibility of local culture development.

In Bogor Regency, most (81.94%) respondents stated that there were no specific requirements, but 18.06% of them proposed the following requirements.

- a. Determination of specific day and month for moving in to a new house for a blessed, healthy, and safe life.
- b. Respecting neighborhood relationship.

- c. Comfortable and healthy house.
- d. Good relationship with neighbors.
- e. Being free from flood and crimes.
- f. Possibility of developing social relationship.

In Depok City, almost all respondents (98.33%) stated that they did not have specific requirements for the preparation of a house. There was only one respondent (1.67%) who proposed a thanksgiving ceremony as the expression of grateful feeling to God the Almighty for a new house. This major attitude of respondents in Depok City who mostly lived in housing complexes might be caused by the fact they had a rational way of thinking in choosing a house to live in. This condition was different from that of respondents in North Jakarta City which mostly (65.33%) said that they did not have any specific requirements for choosing a house to live in. However, 44.67% of respondents proposed some requirements as follows.

- a. The house design conformity with Betawi traditional house design
- b. Free from flood.
- c. Clean and supporting physical environment for a livable house.
- d. Having something sacred to safe before constructing the house
- e. Big number of residents.
- f. Single ethnic neighborhood.
- g. Custom conformity.

Based on the findings, it was people of North Jakarta City who had more specific requirements related to customs and culture. Meanwhile, people in Bogor City proposed specific requirements which were more related to religion to create an environment which was conducive for conducting religious services.

House facing direction was found to be another social factor to consider with regard to housing provision for LIP. Based on their cultural traditions, people have their preferences about facing direction of their house whether it is east, west, south, or north. Sunlight, safety, street sight, and beautiful sight were found to be the bases of these preferences. Many people were found to use *fengshui* or other traditional beliefs when they choose a house for luck and blessing. In addition, LIP required a housing to provide worship facilities as the main facility. The next requirements included access to educational and sport facilities. Transportation and shopping facilities that could be accessed with good transportation facility were found to be their next preferences.

Economically Decent House

A house can be assessed as economically decent based on the ability of LIP to have an affordable house. However, there is another requirement related to the type of house expected by LIP and its ownership status. There are two types of house, namely private house with complete certificate for land and a house on it and rent *rusun* in a reasonable price with sufficient facilities but it has no ownership certificate of land or house.

It was found in this study that most respondents (85.25%) wanted to have a private house, 9.93% preferred to have a house with use rights, and only 3.55% chose to have a house without land ownership. As people's need for decent housing increases, demands for private house without land ownership or house with use rights also increase. Based on this condition, in order for the effort to meet people's need of decent housing be accommodated, it was stated in Law Number 20 Year 2011 on Apartment (*UU Rusun*) that beside on land with property rights, building rights, and certain use rights, *Rusun* can also be built on waqf land.

Affordable prices of a house vary. But, people in general want an affordable house as they have limited income. Some say a house is affordable if its monthly installment or rent is at the maximum one-fourth, others say one-third, of their income. The problem is that their income is low. From 282 respondents, it was found that the amount of monthly installment which was still affordable for them was one of the following: Rp100,000; Rp300,000; Rp500,000; Rp1,000,000; and Rp1,200,000. With this affordable range of monthly installment, they required a simple house which was safe, healthy, peaceful, prosperous, clean, and storied. Others stated that the house should be livable, beautiful, healthy, cool, close to neighbors, harmonious, and equipped with clean water and bathroom facilities.

CONCLUSIONS

Housing provision for LIP requires technical, social, and economical decency of the housing. Technical decency means that the house fulfills the following requirements. It is of 21/60 or 36/72 type or erected on a 100 m² land. In addition, it has to be strong in its construction, durable, beautiful, and comfortable. Facilities for sewerage (sanitation), cleanliness, and health are installed. The house has to have at least 3 closed rooms for bedroom, restroom and toilet, and multifunction room that can be used as a living room, a family room, or even a dining room and kitchen.

Based on respondent's perception, social decency means that the housing is able to give an environment that can make them have close relationship with neighbors. The house also has to be able to accommodate at least a nuclear family consisting of father, mother, and their children. There are some specific requirements as follows. Cleanliness has to be the main factor of comfort. House facing direction should confirm with local cultural tradition. A housing complex has to be equipped with to educational and sport facilities, transportation facility and shopping facilities that could be accessed with good transportation facility. Finally, an economic decency means that a house has to fulfill all standard requirements but it can be owned in an affordable price. However, the availability of letters related to ownerships of a house/building is an important factor to consider by LIP in choosing a house to live in.

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