

A STUDY ON THE UNLAWFUL ACT IN SUBSIDIZED FERTILIZER SALES IN BLANG PIDIE

Haikal Maulidy, Wardah, Muhammad Insa Anshari

Faculty of Law, Universitas Syiah Kuala
Jalan Putroe Phang No. 1, Darussalam, Banda Aceh 23111, Indonesia
E-mail: wardah_fh@unsyiah.ac.id; Phone Number: (0651) 7552295

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ABSTRACT

This research set aims to (1) examine the factors motivating the businessmen to sell the subsidized fertilizer beyond its highest retail price, (2) analyze the legal consequences of the unlawful act, and (3) the government efforts to minimize the violation. This research is an empirical legal study, and the data were gathered through library research and interviews with respondents. The results exhibit that (1) the unlawful act was committed for getting high profit, prepaid income, fertilizer limited supply, customer ignorance of highest retail price policy, and transportation expenses, (2) the legal consequences of the unlawful act was that the businessmen were obliged to compensate the customers, and (3) the local government issued a warning letter to the subsidized fertilizer distributors about terminating their contract with an obligation to compensate the customers and provide regulation socialization to related parties.

Keywords: highest retail price; subsidized fertilizer; unlawful act.

INTRODUCTION

The agricultural sector plays an important role in the Aceh Barat Daya, one of the districts in the Province of Aceh, Indonesia, and its capital city is Blangpidie. Rice is one of the most important commodities in the district. Aceh Barat Daya is even nicknamed *Nanggroe Breuh Sigupai*, which means "The Land of a Handful of Rice" (Henry, liputan6.com, 2022). *Breuh Sigupai* is the name of a type of rice originating from Aceh Barat Daya (Henry, liputan6.com, 2022). The word Blangpidie which was formerly known as Kuta Batee comes from two vocabularies,

namely *Blang* (rice field) and Pidie (one of the districts in Aceh). It was called Blangpidie because in the past there were many rice fields belong to *uleebalangs* from Pidie who settled in Kuta Batee (the old name of Blangpidie) (Wikipedia, 2022).

One of the primary requirements in earning a living for farmers is fertilizer. Due to its strategic importance, the supply of affordable fertilizer is essential. Fertilizer was a critical strategic component in increasing productivity and was an inseparable component of the farming system in the context of agricultural development (Supyandi, 2021). Due to rapid population growth and the resulting use pressure, agricultural soils must maintain adequate levels of quantity and quality to produce food, fiber, and energy without suffering detrimental effects on their nutrient balance, health, or functionality (Pavel Krasilnikov, 2022).

During the twentieth century, the consumption of fertilizers increased dramatically. The quantity for fertilizer nutrients was thought to be about 20 million tons in 1950, compared to approximately 190 million tons in 2019 and 2020 (Alina Ilinova, 2021). Fertilizers feed the world by boosting and enhancing the fertility of the soil, which in turn nourishes crop plants. No nation in the world has been able to increase agricultural output without increasing fertilizer usage (Barber, 2017). Without biotechnology, improved genetics, and fertilizer, the world will not be able to reach its food production goals (Roberts, 2009). Fertilizer is a means of production in the agricultural sector that plays a significant role in enhancing the productivity and production of agricultural commodities; consequently, fertilizers play a very strategic role in the context of the success of the food self-sufficiency program (rice) (Widjaja, 2015) .

Agriculture advancements have long been theorized to promote labor shifts to higher productivity sectors with higher real incomes (John W. McArthur, 2017). To increase crop yields, the Government of Indonesia has enacted a number of policies, including the provision of production infrastructure, the provision of aid and subsidies for production facilities, the provision of farmland counselling

services, and the implementation of basic price regulations for certain agricultural commodities (Eddy Junaidi, 2020). Although fertilizer is a primary need in improving the harvest, it requires some amount of spending, which is a problem for most farmers. Therefore, the government intended to help farmers minimize their expenses and improve their harvest, and the government also consider that fertilizer plays a significant role in improving farmer's productivity and commodity production to actualize the national food security program (Eddy Junaidi, 2020).

The Government of Indonesia allocated a significant amount of public funds to the agricultural sector, the second largest allocation in the economic sector after the transportation sector (Arham, 2020). The agricultural sector is very significant to support the Indonesian economy. About 18 percent of the national gross domestic product could provide staple food and employ 70 percent of the total population of 215 million (or 44 percent of the workforce) (fao.org, 2005). The roles of the agricultural sector include a source of income for the state exchange, job vacancy, economic competitiveness, and added value, home staple food, the raw material for local industries, improvement in sustainable natural resource management (Heliaantoro and Juwana, 2018).

Article 1 (8) of Law No. 41/2009 concerning Sustainable Agricultural Land states that the human effort to manage land and agroecosystems with the aid of technology, capital, labor, and management in order to achieve food sovereignty and security as well as the welfare of the people. This article confirms the importance of nurturing and supporting sustainable agricultural land in order to maintain food security and human prosperity, including the role of farmers as stakeholders.

According to the Minister of Agriculture Regulation No. 49 of 2020 concerning Allocation and Highest retail price of Subsidized Fertilizer in Agriculture Sector in 2021, the types of fertilizers that must be subsidized by the government are: Urea, SP36, ZA, NPK, Liquid Organic Fertilizer, and Organic Fertilizer. These six types of subsidized fertilizers are intended for rice farmers

who: (a) belong to farmer groups; (b) have registered in the e-Definitive Plan for Farmers' Group Needs; (c) can prove their identity; and (d) complete the form for subsidized fertilizer redemption (Imam Mujahidin Fahmid, 2022). Moreover, farmers receiving subsidized fertilizers are: (a) farmers who farm in the food crops, plantation, horticulture, and/or livestock sub-sectors with a maximum area of 2 Ha/season, (b) farmers who farm in the food crop sub-sector, and/or (c) fish cultivators with a maximum cultivation area of 1 Ha/growing season (Imam Mujahidin Fahmid, 2022).

Based on the Minister of Agriculture Regulation, subsidized fertilizer is the fertilizer procured and distributed with highest retail price at the authorized distributor. However, farmers, as the beneficiary of the program, do not have access to such price. They frequently discovered that the price exceeds the highest retail price, and that the distribution technique is ineffective. Based on the prevailing regulation, the procurement and distribution of subsidized fertilizer have been regulated with a highest retail price through official retailers.

In distributing the subsidized fertilizer, distributors select retailers, and farmers who are registered in *Rancangan Definitif Kebutuhan Kelompok Tani (RDKK)* as subsidized fertilizer buyers purchase the fertilizer from the retailers. The relationship between retailers and farmers is to sign a statement letter (Nuraini, Instrumen Kebijakan Pupuk Bersubsidi Bagi Petani Indonesia, 2007). It containing the following agreements, namely retailers is willing to write and sign a statement letter stating that the retailer has the capacity to become an official retailer for subsidized fertilizer under a one-year contract and signed with a duty stamp, and retailers agree to have its retailer contract terminated and be accountable if there is a legal violation related to the distribution (Nuraini, Instrumen Kebijakan Pupuk Bersubsidi Bagi Petani Indonesia, 2007). This letter is a part of efforts made by the government to maintain the supply of fertilizer for farmers with a standard price predetermined by the governmentn (Nuraini, Instrumen Kebijakan Pupuk Bersubsidi Bagi Petani Indonesia, 2007).

Many obstacles remained during the application of fertilizer subsidies, such as fertilizer scarcity and prices above highest retail price (Supyandi, 2021). The problems are caused by businessmen who accumulate the supply in excess of reasonable need for resale at inflated prices, so those with adequate capital can easily buy the fertilizer compared to the less fortunate farmers (Supyandi, 2021). The distribution procedure has been set by the government to ensure that it can be carried out as expected. However, many unlawful procedures were found. The fertilizer, which is intended for farmers, is bought by market speculators. Even though the price of subsidized fertilizer has been set by the government, farmers frequently discover that retailers sell fertilizer at a higher prices (Kementerian Pertanian Republik Indonesia., n.d.). Farmers face financial risk due to the disparity between the market price and the highest retail price (Anggaran Ketahanan Pangan Belum Tepat Sasaran, Banyak Berkutat Di Subsidi Pupuk, <https://nasional.kontan.co.id/news/anggaran-ketahanan-pangan-belum-tepat-sasaran-banyak-berkutat-di-subsidi-pupuk>., 2022).

A case in Blang Pidie shows that subsidized fertilizer is sold beyond the highest retail price. It directly impacts the production cost that the farmers need to spend and making the farmers suffer from financial loss. This research was conducted to prove to all parties, particularly government agencies, that they should generate concrete actions to combat the unlawful act in the sale of subsidized fertilizer, so by doing these measures, they will eliminate losses to farmers, and also for the maintaining food security, particularly the availability of rice in Aceh.

RESEARCH METHODS

This research uses an empirical juridical method. The data was obtained from field and library research. Field research was conducted through interviews with respondents and informants to obtain primary data, while library research aims to obtain secondary data, which is done by reviewing or studying the laws, books, papers, and documents related to the problems that discussed in this study.

RESULTS AND DISCUSSION

A. Factors motivating the unlawful act in subsidized fertilizer sale beyond its highest retail price

Based on the research result, the factors which caused the unlawful act of selling the subsidized fertilizer beyond its highest retail price are as follows:

1. To make a higher profit

In selling subsidized fertilizer, the fertilizer retailers increased the price higher than the standard price, that is, the price predetermined by the material. In increasing the price, the fertilizer is distributed to the authorized retailers who sell the fertilizer at a higher price to make a bigger profit, making farmers protest because of the high price they have to spend on fertilizer (Habibi, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020).

2. To make farmers pay in advance or to pre-order the fertilizer

The subsidized fertilizer sold beyond the highest retail price and limited supply made it difficult for farmers to have access to the fertilizer. The farmers who wanted to buy the fertilizer needed to queue for up to 14 days or more, and make an advance payment or pre-order payment (Imran, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020). If a farmer did not make that payment to obtain the *Phonska* fertilizer, his or her order could have been canceled or transferred to another farmer.

3. Limited supply of subsidized fertilizer

The high number of farmers interested in buying subsidized fertilizer, accompanied by limited supply, motivated certain parties to use the opportunity to exploit the farmers for personal gain (Mukhtaruddin, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020) The farmers had to buy the subsidized fertilizer at a high price because if they did not buy it when the fertilizer was unloaded at the retailer, the fertilizer would be out of stock (Saad, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020).

4. Farmers' lack of knowledge regarding the highest retail price regulation for subsidized fertilizer

According to the Department of Agriculture and Food staff, lack of knowledge among farmers regarding highest retail price and lack of socialization made retailers able to sell the subsidized fertilizer beyond its highest retail price. Farmers' lack of knowledge was used by retailers to gain profits from them (Anita, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020).

5. Transportation expense

One of the reasons for subsidized fertilizer retailers to sell the fertilizer higher than its highest retail price is that distributing the fertilizer to the retailers needed time, transportation expense, and workers. (Rahmad, *A Study of the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020).¹ However, some farmers complained that the price was too high, so the farmers did not get any benefit from the subsidy program (Anita, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020).

B. The Legal Consequences of the Unlawful Act Committed by Businessmen in Selling Subsidized Fertilizer beyond its Highest Retail Price

The unlawful act is regulated in Article 1365 of the Indonesia Civil Code, which states that "A party who commits an illegal act which causes damage to another party shall be obliged to compensate therefor." According to this Article, an unlawful act is one committed by someone who, through no fault of his own, causes injurious to another person (Subekti, 2008). The following elements must be present for a person to be said to have committed an unlawful act (Salim HS, 2006):

1. The act must be against the law (*onrechtmatig*).
2. The act must be injurious.
3. The act must be committed by accident (*negligence*).

4. The act and the loss must have a causal relationship.

This is consistent with Von Buri's theory, which states that "the cause of a change is all the conditions that must exist for the effect to occur." The consequences will not occur if one of these conditions is not met, and each of the conditions is a *sine qua non* for the occurrence of the effect, each condition can be called a cause in and of itself (R.Setiawan, 2007).

According to Munir Fuady, unlawful acts are a collection of legal principles intended to control or regulate dangerous behavior, to assign responsibility for a loss resulting from social interaction, and to provide victims with compensation through a suitable lawsuit (Fuady, 2014). Article 1365 of the Civil Code merely states that a person may file a claim for compensation with the court if he suffers a loss due to an unlawful act committed by another person against him (Agatha, 2018). An unlawful act is defined as any act that violates written rules, is contrary to the legal obligations of the perpetrator, and violates the subjective rights of others, as well as any act that violates unwritten rules that should be owned by a person in the association of life in society or against the property of community members (Yudho, 2017).

The action of selling subsidized fertilizer at a higher price than its highest retail price is classified as one of the unlawful acts since it results in a loss for farmers in the Aceh Barat Daya district (Mukhtaruddin, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020). Based on the research, the unlawful act in selling subsidized fertilizer is that the retailers had harmed farmers in the form of financial loss because the fertilizer was sold at a high price (Mardi, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020). Farmers in Aceh Barat Daya area had attempted to make a complaint about this wrongful act, but it did not give any deterrent effect for the authorized retailers (Imran, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020). One of the forms of dissatisfaction among farmers was that there was no

compensation given by subsidized fertilizer retailers (Habil, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020).

C. Local Government Efforts to Reduce the Unlawful Act of Businessmen Selling Subsidized Fertilizer above the Highest Retail Price

The problems of wrongful acts by retailer businessmen in selling the subsidized fertilizer show that the objective of subsidized fertilizer distribution has not been achieved (Mukhtaruddin, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020). The Head of Indonesian Chamber of Commerce and Industry in Aceh Barat Daya stated that if the selling activity of subsidized fertilizer had violated the law, the government was responsible for taking action (Hasan, *A Study of the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020).

Moreover, the Department of Agriculture and Food staff explained that they applied some actions for retailers who sell subsidized fertilizer with a non-standard price to minimize similar misconduct (Mukhtaruddin, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020). These are outlined in the following:

1. Giving a Letter of Caution.

Through PT. Meuligo Raya, reatailers will receive warning letters if they sell subsidized fertilizers in excess of the average. In addition, PT. Meuligo Raya will issue a warning and even take action in the form of contract termination (commitment) against retailers who engage in sales practices that are inconsistent with what has been determined.

2. Socialization the subsidized fertilizer program to Businessmen.

The Department of Food and Agriculture advised the businessmen not to violate the law and suggested solutions to run their business legally (Mukhtaruddin, *A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie*, 2020). However, this effort had no deterrent effect on retailers, as they continued to

sell fertilizer at a premium price (Imran, A Study of the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020).

3. Coordination between the government and farmers.

This action is regarding the share of information about subsidized fertilizer programs (Mukhtaruddin, A Study on the Unlawful Act in Subsidized Fertilizer Sales , 2020). However, the information given by the government was not clear, so they could not effectively use their rights to obtain the subsidized fertilizer (Imran, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020). According to a farmer, the success of the socialization program could be measured by whether or not the farmers understand the information (Mardi, A Study on the Unlawful Act in Subsidized Fertilizer Sales in Blangpidie, 2020).

CONCLUSION

Based on the research, the Authorized retailers increased the price of subsidized fertilizer to generate big profits, they enforced an advance payment policy, and there were limited fertilizer supply, while farmers did not have adequate knowledge regarding the highest retail price. The result also show, the unlawful act in selling subsidized fertilizer at a high price create the financial loss for farmers, and they did not get any benefits from the program because there is no any compensation of higher fertilizer price selling in the market. There are some efforts taken by the Department of Food and Agriculture in Aceh Barat Daya to minimize the case of subsidized fertilizer sold beyond its highest retail price, namely issued a warning letter to the company that organizes the distribution to suggest termination of the contract with the authorized retailers who sold the subsidized fertilizer beyond its ceiling, socialization the subsidized fertilizer program to businessmen, and coordination between the government and farmers.

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