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RESEARCH ARTICLE

THE PHILOSOPHY OF LAW REVIEW; ACCORDING TO PANCASILA IDEOLOGY VALUE IN AGRARIAN DISPUTES UPON THE EIGENDOM VERPONDING LAND

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ABSTRACT

Philosophy is 'distinctive knowledge' that tries answering the problems that can not be answered by ordinary science because these problems out the reach of ordinary science. "Philosophy of Law" is a belief or philosophical appreciation adhered by people or society or State on the nature of characteristics and the cornerstone of enactment of the law. One is the natural law school (nature), who believed that a good law is a law that can apply universal and timeless. The ideology values of Pancasila become dasollen measurement for the Eigendom Verponding land case were taken over by the State. The general philosophy answering question how far the ideology values of Pancasila can be implemented by society (das sein).

INTRODUCTION

Etymologically the term philosophy derived from the Greek word philosophos, or philein philos means to love, while shopos means the wisdom. In English it called Philosophy. From the Greek word philosophos, it consists of two words Philos (love) or Philia (friendship, attracted to) and Sophos (wisdom, wisdom, knowledge, skill, intelligence). Thus, philosophy means love of wisdom or truth (love of wisdom). The person involved in philosophy called philosophers and in Arabic is called Failasuf. In another sense philosophy is fundamental and monumental human thought to seek the ultimate truth (wisdom, prudence); since this truth is recognized as the best value of truth, which made as the life principle (Weltanschauung). Philosophy is 'distinctive knowledge' trying to answer the problems cannot be answered by ordinary science, since the problems are outside the scope of ordinary science. Philosophy discusses about human and reality in "higher level" and therefore it has wider way of life t (gezichtsveld).

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Not long ago in a colloquium someone had talked about satellites of Law Philosophy and helicopters of Legal Theory. Philosophy wants to penetrate "deeper" into the truths and fundamental values, and not another (higher). It sought a thorough explanation about man and world. The question then is how differences in term and meaning between Philosophy and Ideology? Philosophy is kind of knowledge/ science; whereas ideology is a way of life. According to Indonesian dictionary the meaning of "philosophy" is: assumptions, ideas, and the most basic mental attitude owned by people or society; way of life. While in 'glosarium' or meaning of philosophy according to Indonesian language study philosophy is: way of life; view; The fundamental ideas and views are owned by people or society. Scientifically meaning of philosophy according to Immanuel Kant is the science (knowledge) that becomes base of all knowledge wherein included the epistemology problem (philosophy of knowledge) that answer what question we can recognize. Futhermore, understanding according to Aristotle, philosophy is science (knowledge) that comprise of the truth in which contains metaphysics sciences, rhetoric, logic, ethics, economics, politics and aesthetics (philosophy of beauty). Al Farabi said that the meanings of philosophy is science (knowledge) about the essence of how real tangible nature. While Rene Descartesmakes understanding philosophy is collection of entire knowledge where God, man and nature become the core of its inquiry.

achieve knowledge about the real truth. Langeveld said philosophy is to think about a final and decisive problems, the problem concerning the meaning of circumstances, God, freedom and immortality. Considering the definitions of philosophy mentioned above, we can draw the red thread, that philosophy was science about searching the nature of truth, with the truth measurement of God. Furthermore how does the meanings of Philosophy of Law? According to Soerjono Soekanto, Philosophy of Law is contemplation activity of values, harmonization of values and formulation of values which is coupled but sometimes clashed. According to Apeldoorn, Philosophy of Law is directions about values prevailing in society as well as indicates direction in which these values will flourish. While Lili Rasjidi define the meaning of Philosophy of Law is theoretical reflection (intellectual) of the oldest law and can be said to be the host of all theoretical reflection about law. Now, according to J. Gejssels, Philosophy of Law is general philosophy directed its reflections to the law and legal symptoms. The same thing is also foundin Meuwssen DHM's argument that definition of Philosophy of Law is philosophy reflected all fundamental problems and border issues related to the legal symptoms.

If reviewed from the scope of its discussion, philosophy includes many fields of discussion, among others about man, society, nature, knowledge, ethics, logic, religion, aesthetics, and other fields (along with the development of science, appears and develops the sciences of philosophy dealings with certain disciplines, such as philosophy of social, philosophy of law, philosophy of politics, philosophy of Language, philosophy of Science, philosophy of Environmental, philosophy of Religion and philosophy related to other disciplines). The philosophy is grouped into two categories, that is philosophy as a product and philosophy as process. Philosophy as product includes two senses. First, the meanings of philosophy as kind of knowledge, science, concept of the philosopher in ancient times, theory, in system or particular views the result of philosophizing process and have certain characteristics. Second, philosophy as kind of problems encountered by humans is a philosophizing activity result. Philosophy as process have meanings that philosophy is not only a set of dogma are believed, engaged, and understood as a particular value system. The review of Philosophy of Law according to the values of Pancasila in the land dispute of "Eigendom Verponding" is giving intent and meaning the Philosophy of Law in the values corridor of philosophy of Pancasila, that is how the measurement in case of eigendom verponding land is taken over by the State as a foothold.

Under the reform and amendment spirit of Act 1945, it is most fair that values of Pancasila should be placed in every nation and state life, including the agriculture concepts, including within the land problems. However Pancasila is the basis of State, and way of life for Indonesian nation. So when Indonesia national legal system would ro be 'repaired', it begins from commitment to philosophy of Pancasila as the State basic and unifying the nation. In the agrarian law context, moral values in belief principle in one God, just and civilized humanity, and deliberation values, will get rid of feudalistic, capitalistic, monopolistic, bureaucratic, authoritarian and repressive values. We learned so much, that with feudalistic, capitalistic, monopolistic, bureaucratic, authoritarian, and repressive values approach, various land cases, either in the form of dispute, conflict, as well as case, until today is still happening in many places. The agrarian disputes over the eigendom verponding land were taken over the State is the legal case. Agrarian dispute is relationship of the parties characterized by conflict between two or more parties associated with recognition (claim) on a plot of land, territory, or other natural resources based on interpretation upon the similar and/ or different right (read:source of legitimacy) one another. In such of conflict one or more parties directly acting want to eliminate and / or do not recognize and/or hinder the recognition of other party on particular agricultural objects. Eigendom is a term known in the West Civil material law, means "property rights". Eigen means 'self or personal', while dom refer to "Dominium" word defined as "property rights". Thus, "eigendom" means "private property right." As for "verponding" is kind of tax imposed upon the fixed objects (land and buildings) have been proven by "eigendom" or ownership proof, where taxes imposition started in Batavia at 1800, The ownership rigt (eigendom) is one type of material rights regulated in Book II Burgerlijk Wetboek (Civil Code). But with the issuance of Acts No.5, 1960 on the Basic Regulation of Agrarian Principle, the property rights upon the eigendom land was deprived from book II of Civil Code and included in Law No. 5 of 1960 on the Basic Regulation of Agrarian Principle. The law case can be studied in juridical-philosophical (Philosophy of Law), in yuridis- normative (Dogmatic of Law), and socio-juridical (Sociology of Law). Against the agrarian disputes upon the eigendom verponding land were taken over by the State, can be identified thr at the problem, that are; 1) This legal case in juridical-philosophical (Philosophy of Law), in yuridical-normative (Dogmatic of Law), and socio-juridical (Sociology of Law). Identification of the problems can be studied by the problem formulation of the issues namely; 1) Is the transfer of Eigendum Verponding land been implemented have judicial philosophy, normative, juridical and sociological problem? 2) Why transfer of Eigendum Verponding land by the state arising dispute or conflict between parties? 3) How to reflect these issues in the future, so it does not reoccuring than other cases judicially- philosophical, juridical normative and juridical sosilogic?

While the problems of Philosophy of Law with concentration on the discussion of philosophy of Pancasila whether description on the philosophy that discusses Pancasila as its object?, or description on the philosophy contained in Pancasila. This paper is about Philosophy of Law by instruments of study from the side of philosophy of Pancasila. The studies with the values measurement of philosophy of Pancasila, so the question could arise are: 1) whether transfer of the Eigendum Verponding land has been implemented in accordance with juridicial-philosophy, juridicial-normative, and juridical-sociological? 2) how and to what extent "various measurement in the law violation allegation" is viewed with values parameter of Pancasila, Godhead values, humanitarian values, justice values and deliberation values? 3) How to reflect these problems in the future, so it does not reoccured to other cases in judicially-philosophical, juridical-normative and juridical-sosilogical?

Definition and Scope of Philosophy of Law

Some legal experts believe that the science of law does not stand alone. Hans Nawiasky divides legal studies on: Lechts noermenlehre, rechts soziologie,and rechts philosophie. While Purnadi Purbacaraka and Soerjono Soekanto argued that legal studies disciplines include: sciences of law, Politics of Law,

and Philosophy of Law. There is also that divide the sciences whose object is law consists of: Theory of law, Sociology of Law, Comparative of Law, History of Law and science of positive law. Satjipto Rahardjo (1982) explains that Philosophy of Law questioned the fundamental questions of law. Questions about 'the nature of law. According to E.Utrech (1966) Philosophy of Law provides answers to questions such as: What is the real law? Why do we obey the law? What the justice became the measurement to god and bad of law? These is the questions actually answered by the legal studies. However, for many people the answers of legal studies was unsatisfactory. The legal studies as empirical science are only see the law as a symptom, i.e., accept the law just as a "gegebenheit". Philosophy of Law want to see law as a rule in the word meaning "ethisch wardeoordeel."

In addition there are other questions that should be investigated by Philosophy of Law proposed by Kusumadi Pudjosewojo (1961):

"And once questioning matters of legal studies, it close the people to questions such as: What the purpose of legal studies? What are the justice requirements? What is the justice? What the relationship between law and justice? With such questions, people already go beyond the limits of legal studies and as its common meaning and step on the field of "Philosophy of Law" as the science of philosophy. "

Soetikno formulate: argue that "Philosophy of Law seek the nature of law investigated the rule of law as judgments of values." L.Bander O.P. state that "De rechtsphilosophie of wijsbegeerte van hel recht is een wetenschap, die deel uitmaakt van de philosophie." While Purnadi Purbacaraka and Soerjono Soekanto said: "Philosophy of Law is reflection and formulation of values, but Philosophy of Law also includes harmonization of values, for example: resolution between the tranquility of order, between materialism and morality, and between permanence/conservatism and modernism."

According to Mahadi (1989) "Philosophy of Law is philosophy of law; philosophy about everything in the field of law deeply to the roots systematically." Seojono Dirdjosisworo argued:

"Philosophy of Law is the establishment or philosophical appreciation adhered by people or society or the State about the characteristics nature and the cornerstone for the enactment of the law." and Van Aveldoom outlines as follows: "Philosophy of Law requires answers upon the question: What is the law? It wants us to think carefully about our response and ask ourself, what is in the fact we will be responsive about the law. "

Where the jurisprudebnce is ends, there is began Philosophy of Law; it studies the questions unanswered by science. Total questions is innumerable, the science did not give any answer to the question of law. All legal questions can be an object of philosophical consideration. However, the Philosophy of Law experts in fact prefer to learn the most important questions. The questions that arise urgently on each man who thinks of justice and injustice.

The philosophy of law schools in general can be divided into seven schools, namely: 1). The natural law (natural) school, believes that a good law is law can apply universal and timeless. This school appears as a reaction to the failure of mankind to seek an absolute justice. 2). Legal positivism view the legal certainty as primary value must be upheld. This means that law should be separated from morality because what is fair and unfair, not a jurispudrnce business, but so with the benefit of law according to discussion of sociology. In the eyes of legal positivism, the only source of law is a, Acts made by the authorities. 3). Utilitarianism (utilisme) argued that significant value in the law is just expediency. There is useless of making laws on paper is very just and sure, if in practice it is not beneficial to the society. So the good law measurement is is expediency, and it must be tested by experience (empirical). 4). School of history. A good law according to this school is law corresponding to the concerned spirit of the nation (Volkgeist) . The legal consciousness is departs from the nation experience (empirical), whch practiced for generations (since it believed most good and fair) and has had a valid sociologically, so no doubt its effectiveness in society. 5). Sociological jurisprudence was born in the Common Law system which puts jurisprudence (the judge's decision) as source of very important role. This school corresponding to its character with the law administration mindset in Indonesia. 6). Legal realism and 7). Frieierechtslehre emphasized the importance of experience as source of expediency as main value in the law. Here is the judges have freedom to interpret the law, even if necessary to be at odds with the provisions of legislation created by the authority. Based on the Act 1945 the amendment result Indonesia is the law state. The laws of nature and utilitarianism schools, as well as schools of history were more appropriate as the soul of Article 1 (3): "Indonesia is a State of Law."

Ideology of Pancasila as Philosophy of Law

Ideology of Pancasila is the result of thought/ thinking deeply of Indonesian nation which regarded, trusted, and believed to be the most righteous something (reality, norms, values), the fairest, the wisest, kindest and most approptiate to the Indonesian nation. To be more convicing Pancasila is a doctrine of philosophy, we should quote the lecture of Mr. Moh. Yamin on Seminar of Pancasila in Yogyakarta at 1959, entitled "Overview of Pancasila to the Functional Revolution".

The contents of his speech is as follows:

"Overview of Pancasila is arranged in harmony in philosophy system. Let us warn briefly that doctrine of Pancasila we can review in accordance with an accomplished philosophers, i.e., Friedrich Hegel (1770 - 1831) father of the evolution of matterial philosophy as taught by Karl Marx (1818 - 1883), and according to reviews of the veterinary evolution according to Darwin Haeckel, and also concerned with spiritual philosophy as taught by Immanuel Kant (1724-1804).

According to Hegel the essence of his philosophy is the synthesis of outer from antithesis of mind, from the mind antagonism the blend of harmonious idea. And this is right. Similarly, doctrine of Pancasila a State synthesis born from antithesis. I don't want to juggle. Remember the first sentence of Preamble of the Constitution of Republic of Indonesia 1945 that quoted earlier with the statement: That in fact the freedom is the right of every nation. Therefore, the occupation should be abolished because it contradicted with humanity and justice. The first sentence is synthesis between occupation and humanitarian and justice. At the time the synthesis was gone, it

gives birth to independence. That independence we arrange in Preamble of Constitution of RI 1950, which reads: "Then with this, we arrange our independence in the State Charter of Republic of Indonesia under Pancasila.'" And here called the five principle to achieve happiness, prosperity, world peace and freedom. This sentence clearly an anithese sentence. The synthesis of independence with Pancasila and the goal of nation glory called happiness and welfare. This is not clearly and conspicuously a synthesis of mind on the basis of anitese opinion? So parallel with the goal of Hegel thought it is reasoned the opinion that doctrine of Pancasila is a philosophy system, corresponding to Neo-Hegelian dialectic. All the principle is an arrangement in a housing of harmonious philosophy mind. Pancasila as the excavation result of Bung Karno is also in line with the living reviews of Neo-Hegelian."

Now, the basic of State should be philosophy that concluded the life and ideals of independent Nation and State. Pancasila as the basis of State, then agreed as philosophy of life, and way of life of Indonesian nation, as well as being the source of all sources of law. All legal products should refer to Pancasila and Constitution 1945 Does Pancasila included as Philosophy of Law? Seojono Dirdjosisworo argued that "Philosophy of Law is the establishment or philosophical appreciation adhered by people or society or State about of the nature of characteristics and the cornerstone for the ebactment the law," so based on Soejono's version definition of philosophy, and the standing of Pancasila as source of all sources of law, then the standing of Pancasila as the cornerstone for the enactment of law, as an ideal basis, then the standing of Pancasila as source of all sources of law, Pancasila is the philosophical of law. Accordingly, speaking about philosophy of Pancasila, means talking about "Law Philosophy of Pancasila."

Philosophy Values in the Philosophy of Pancasila Scope

The values of Godhead Philosophy in the Philosophy of Pancasila scope: Belief in Almighty God to be principal source of life values of Indonesian nation, animate and underlie and guide the embodiment of just and civilized humanity, mobilizing unity of Indonesa that has created a fully sovereign State of Republic of Indonesia, which was democracy and led by wisdom and discretion in consultative / representatives, in order to realize social justice for all Indonesian people. Belief in Almighty God contains understanding and belief in Almighty God, the creator of nature and its contents. This belief is not a dogma but belief rooted in true knowledge, can be tested by the rules of logic. The principle values 1 covering and animating the 2nd, 3rd, 4th, and 5th principle.

The values of Humanitarian Philosophy in the Philosophy of Pancasila Scope: A just and civilized humanity is consciousness of human attitudes and actions based on the potential of human pure character in relation to norms and culture in general either against the self, fellow man, and to the nature and animals. With a just and civilized humanity, every citizen has equal position and the same against Constitution of the State, has same obligation and rights. Each citizen is guaranteed his right and liberty in relation to God, fellow human, with the State, society and also relates to freedom of expression and achieve a decent life in accordance with human rights (HAM). The values of 2nd principle was overwhelmed and animated by the first principle, covering and animating the 3rd, 4th, and 5th principles.

The values of Unity Philosophy in Philosophy of Pancasila Scope: The philosophy values of Indonesian unity in the Philosophy of Pancasila scope is not relevant in terms of agrarian disputes upon the eigendom verponding land so that "disunity" between the conflicted or quarreled parties was not as wide as the scope of interest of the Indonesia Unity principle that has broader and deeper scope. The land conflict does not threaten the Indonesia unity.

The values of Deliberation Consultative Philosophy in the Philosophy of Pancasila Scope: Deliberation is a distinctive ordinance of Indonesian personality to formulate and decide something based on the people will, so it was reached decisions by unanimity/consensus. The wisdom of policy means the use of ratios/healthy mind by considering always the unity of nation, the people's interests, and implemented in conscious, honest and responsible and driven by good intention in accordance to human conscience. The fourth principle of Pancasila is them self important of the family principle of our society. The 4th principle was animated by 1st, 2nd, and 3rd principles, covering and animating the 5th principle.

The values of Social Justice Philosophy in the Philosophy of Pancasila Scope: All Indonesian people receive fair treatment in the fields of law, politics, economics, and culture. The meanings of social justice include also the understanding fair and prosperous under the constitution. The values of 5th principle was animated by 5th, 1st, 2nd, 3rd, and 4th principles. The essence of the meaning of philosophy by some definitions refer at one point, i.e., philosophy is the result of reflection and deeply thought that produces the values of certain way. According to philosopher Prof. Dr. MJ Langeveld in his book "Opwegnaar Wijsgerig Denken" (leading to philosophical thinking), argues that we are entering the philosophy of when we think of any statement too radical, that is, from the base up to the consequences of the last and systematically, that is, in the narrative of the logical sequence and responsible mutual relations. What formed in the overall narrative and description of so-called philosophy.Philosophize is to seek the truth, the truth about everything that question by thinking in sisematis, radical and universal. Philosophy can be defined as a science and as a way of life. Justice in the life of Indonesia State and Nation is absolutely as philosophy. In the third principle of Pancasila, social justice for all Indonesian people. Then in the third paragraph of the Preamble of Constitution 1945:

"That in fact independence is the right of all nations and therefore the occupation on the world should be abolished because it does not correspond to humanity and justice."

Pancasila as the national ideology provides a fundamental provision as follows: 1) The legal system is developed based on the values of Pancasila as its source; 2) The legal system shows its significance as far on realizing the as justice; 3) The legal system has function to maintain the life dynamics of the nation; 4) The legal system guarantees self realization process for citizens of nation in development. In realizing the justice, law is not merely a tool of power, not legitimacy to run exploitation that may constitute an injustice itself. The law does not synonymous with justice, but aims to make it happen for the sake of people.

The Philosophy of Pancasila Value Against Agrarian Dispute

The occurrence of unlawful "transfer of rights" in accordance the norms, rule and regulations shall be considered null and void, in the agrarian disputes upon the eigendom verponding land became the state land that took place in the presence of dominance or superiority residing on government authorities in dealing with inferiority of people individual whose almost no power. The problems to build property on land owned by other party is theoretically relates to issues of propertyf rights and public policy, primarily related to licensing. One of the conditions for respecting to the ownership rights is legal protection or enforcement by government. Here the government allegedly did not play role as it should, since the government did not attempt to enforce the property rights of its citizens well.The other side of respect to the people rights on ground are less respected or even suspected to be systematically marginalized. If the Godhead values, become spirit on the Government decision on taking over the private land, the government will pay attention to humanity aspects (HAM) in terms of people's ownership, will conduct communication and deliberation seeking resolution to the existing dispute, and engage with social justice approach to the land owner people, for example, the provisions for compensation to landowners as specified in the Agaria legislation. In regard to agrarian disputes upon the eigendom verponding land were taken over by State the parties will uphold humanity values, pay attention to people's rights and government rights in terms of land ownership for public use and the State. Besides the philosophy of Pancasila upholds the deliberation values. The agrarian act provides solutions either out of court or tribunal. Unlike in current the problems of eigendom verponding land which taken over by the State was uncertain. The state have right to all land in Indonesia, but the proprietary rights is in the sense of managing, so that expropriation of the people land must be in consideration of people's rights to land that governed by Constitution (the Constitution 1945 of amendment result) and legislation in the hierarchy below. There is a balance between fulfilling people's rights and state rights, people obligations and state obligation. That is the justice value imbued with the philosophy of Pancasila values.

Philosophy of Pancasila with Science and Theory Relevant To The Agrarian Dispute

Politics of Law in the Philosophy of Pancasila: The problems of law violations, in particular violations against the philosophy values of Pancasila principles in the land sector should at least be approached from two fundamental things, first reviewing the overall agrarian law through political reform of national agrarian law; secondly, the "instant" resolution upon the Eigendom Verponding case which taken over by the State through the court. The fundamental approach is reviewing "Political of Law" on the National Agrarian Law, in terms of reviewing the State policy on the shape and direction of the agarian national laws to conform with the philosophy of Pancasila value and constitution spirit. Political of law on the national agrarian law was done both from dogmatic aspects of law and special attention to suitability of philosophy of Pancasila and constitution spirit. The efforts in questioned political of law is as follows: a). Reviewing all laws and regulations relating to the national agrarian law, particularly by legislative. The purpose is to investigate on: b) The overlaping legislation related to national agrarian one another, as material for harmonization effort to legislation in order each other is corresponding based on the hierarchy of legislation as arranged in the legislation on Making the Legislation. Overlapping the legislation result in legal uncertainty. d).To what extent the conformity of laws and regulations on the hierarchy under the Act 1945 and the philosophyof Pancasila values. f). Enforcement of law by Executive and Judicative aimed at creating the legal certainty in all parts of Indonesia area. Concerning with these two things, reviewing all laws and regulations relating to national agrarian law and law enforcement by Executive and Judicative, it will be easier to achieve comprehensive resolution on the national agrarian problems. While, in terms of science, either the improbvement for Politica of Law or "instant" resolution should be based on the relevant theory i.e., Legal Certaity Theory, Public Policy Theory, Ownership Theory, and Justice Theory. The contribution of four theory in case resolution both the land problem in general and dispute case of claim on the Eidendom Verponding was taken over by the State in particular, is normative-philosophical, which provide rules that are normative and philosophical. The values of rule in the theories relative according to the philosophical of Pancasila values.

The Legal Certainty and Chaos Theory in Philosophy of Pancasila: According to Gustav Radbruch, law must contain three identity values, namely: a). The principle of legal certainty (rechtmatigheid). This principle review from the judicial point. b). The principle of legal justice (gerectigheit) . This principle reviewing from the philosophical point, where the justice is the equal of rights for all people in front of the court. c). The principle of legal expediency (zwechmatigheid or doelmatigheid or utility. More complex and modern demands of life forces every individual in society inevitably, like it or not want any certainty, especially legal certainty, so that every individual can determine their rights and obligations clearly and structured. The legal certainty in society are needed for the sake the enactment of order and justice. The legal uncertainties will cause chaos in the society life, and every member of society will be mutually do as well as acts of vigilantism. This makes the existence of such a life is in an atmosphere of social chaos. The legal certainty is a matter that can only be answered normatively based on the legislation in force, not sociological, but legal certainty normatively is when a rule is made and enacted exactly as set out clear and logical in the sense that pose no doubts (multi-interpretation) and logical in the sense of norms system with other norms so as not to clash or conflict of norms arising from uncertainty. Legal certainty is situation where human behavior eitherindividuals, groups and organizations are bound and in a corridor that has been outlined by the rule of law. In this context we can observe the chaos theory of law was initiated by Edward Norton Lorenz and Ilya Prigogine. Chaos theory of law with regard to irregularities (law) , at the same time also speak about the law regularity. Thus, irregularities in the reductionistic view, is part of regularity in the holistic view.

Prior to further explanation, it need to be clarified formerly that in the chaos theory of law, what so-called chaos, can be divided into two categories. First , destructive chaos (negative chaos), chaos that lead to apostasy, destruction, and misery. Chaos in this holistic perspective paradigm, arises because there is deliberation to reduce the integrity of legal reality, either in relation to its approach (integrity of mind-hearts), its space-scope (physical-spiritual wholeness), and its object of

study (man-nature integrity and unity of human-God). (hlm.7) Second , constructive chaos (positive chaos), the chaos that is on track (track) toward the wholeness of a transcendental religious legal system, the legal system that puts integrity of sense-hearts, physical-spiritual, human-natural, human-God. Islamic religion, calls such as being on the road of "sirath al mustaqim " that is the way people gain the favor of Allah. The regularity theory (such as positivism theory), during the time, has stopped in the explanation of the complete orderly circumstances, in society and the State. Law is seen as a guarantor of order and security, and therefore must be obeyed, without any possibility and opportunity for criticism. What is in the file of analytical positivism adherents about what is existing and happening in the law is an orderly atmosphere. With introduction to the chaos theory of law , it turns out the order, regularity and certainty, is not the only legal reality, but still another reality namely chaos in the law. The order and chaos in law are not two opposites matter, not something dichotomy like the black-white, but as the interconnected reality, complementary and intertwined in the continuous change process. The chaos theory of law, is theory that can explain well to the complex legal realities and gave the correct solution to the law crisis that hit this state.

Public Policy Theory in the Philosophy of Pancasila: One of early figure who try to define public policy is Thomas Dye. Thomas Dye describes public policy as everything chosen by government to do or not to do something. The definition was deemed too narrow to describe the public policy. There are two meanings can be taken from the Thomas Dye's definition. First, Dye argued that public policy could only be made by government, not private organizations. Second, Dye reaffirms that the public policy concerning the selection done or not done by the government. William Jenkins defines the public policy as a decision of various actors that are interconnected to achieve a certain goals. The matter needs to be underlined William more emphasis the public policy in the policy-making process, unlike Thomas Dye that only defines public policy as a choice made by the government. In addition, James Anderson defines the public policy as the policy established by agencies and government officials, although these policies can be influenced by actors and outside factors. In making policy, the government is required to make choice between objectives and alternatives, and the choice always involves the will. The government policy are generally not stand alone, but consists of a coordinated set of policies to achieve a goal.

There are three qualifications in defining the public policy, namely; (i) an idea involved a series of wished actions includes within the decision made not to make any specific steps. (ii) the actions taken by government as an institution or government officials must be accompanied by legal or customary sanctions acceptable by the oarties for the public officials often take action outside of public policy such as receiving bribes or acted beyond its authority; (iii) laws or regulations should not be mistaken for overall of the public policy; and the law or legislation must not conflict with the public policy goals. The law makers is not enough to shape policies; but also should consider implementation, interpretation, enforcement, and impact of laws and the regulation, because everything is a part of the public policy. The public policy can be issued by the central government to local government, with its variety types. Without these public policies, presumably there will be no transfer of Eigendom Verponding land ownership, and is not likely to happen any party suspected not the owner or the heirs of the land to build on the land. Herein lies the relevance of public policy theory with the problem of this research.

Ownership Theory in the Philosophy of Pancasila: Alexandr Opoulou (nd) defines " property rights " as " the socially acceptable use to the which the holder of them can put the scare resources to roomates Reviews These rights refer. It is the bundle of legal rights roomates describe what a person may or may not do with the resources he owns: the extentto the which he may posses, use, transform, bequeath, transfer or exclude others from his property."

The rights implies recognition or claim on something (a thing), it may be goods/physical that are tangible, services or knowledge/information that is non-tangible that enforceable or respected by other parties. Bromley (1989) defines property rights as the right to obtain a secure flow of profits, for others respect to the flow of such earnings, associated with the transaction. Alexandr Opoulou revealed three basic elements of the property rights, namely: (i) the exclusivity of rights to choose the use of a resource; (ii) exclusivity of rights to services of a resource, and (3) rights to exchange the resource at mutually agreeable terms.

While Vincent RJ argued that "right" has five main elements: a). The subject of right, i.e., the right-holder. The right-holder is more as individuals, but can also in form of a group (family, tribe, company, nation, state, region, culture, perhaps even global property; b). The object of right, what become property of the rights, both positive and negative as a claim upon the right; c). The Exercicing a right, an activity connecting between the subject (the right holder) with the object (what is claimed as a right) (the activity connect a subject to an object; d). The bearer of the correlative duty, where at time the rights attached to someone means against others who do not get the right, so it is a struggle to "beat" all the barriers of other party; e). The justification of a right, a question of justification that something is owned by a person/group (the question of the justification of a right).Therefore, the rights should be based on the claim over the object of the right, and it is expected that no other party objected.

From definition of property rights, it can be understood that; a). There must be something (things) in the form of goods/ physical that are tangible, services, or knowledge/ information that is intangible. b). There must be a claim of exclusive rights owner, c). There must be benefits. The owner of something (things) must utilize, managing over something, changing or transferring part or all of such rights. Transfers can be in a sense to sell, grant, lease, and bequeath. d). Must can be enforced (enforceable). It means in order something becomes a right, in addition must contain a claim on something also claims should be protected by law. Because the rights that can not be enforced or not protected by law, that right becomes meaningless. Therefore, the most important element in ownership is enforcement. Why property rights need to be enforced, at least two reasons. First, because the enforcement of property rights is necessary by institutions, rule or authorities regime to ensure the enforcement of these rights. Second, because the property is part of human rights. The human right to have is one of the most fundamental rights. The ownership theory has five main elements in the theory are relevant to the issue of this research; a). the subject of rights,

namely the the right-holder, related to the problem who owns the Eigendom Verponding land were taken over by the State ; b). the object of right, involving what would become the property of the (what it is a right to), means pertaining to the Eigendom Verponding land were taken by the State ; c). The exercising a right, an activity connected between subject (the right holder) with object (what is claimed as a right), in this case related to the activity of the shift the control of the land from the eigendom verponding landowner to the country, as well as to the building owners who construct buildings on the Eigendom Verponding land were taken over by the State; d). the barrier of the correlative duty, related to the land de facto as if the switch of ownership, so that it becomes an obstacle to owner of eigendom verponding to control back; e). Justification of right, concerning the justification why the Eigendom Verponding land were taken over by the State no longer controlled by the suspected as heir of the owner.

Hans Kelsen's Justice Theory in the Philosophy of Pancasila: Hans Kelsen (October 11, 1881 - April 19, 1973) a national legal expert of Jews German separate between law and justice. According to him the law and justice are two different concepts. The law separated from justice is a positive law. Release the law concepts and idea of justice is quite difficult because it constantly confounded politically related to ideological tendency to make the law seen as a justice. The tendency identifies law and justice is tendency to justify a social rules system. This is tendencies and political ways of working, not science tendency. The question whether a law is just or not and what essential element of justice, cannot be answered scientifically, so the pure theory of law as scientific analysis cannot to acknowledge it. What can be answered simply that the rules regulating the human behavior applied to all people so they find the joy within it. Therefore a social justice is social happiness. If justice is interpreted as a social happiness, the happiness will achieved if the individual needs are met. The fair rules are the rules and regulations ensured the fulfillment of these needs. But this is unavoidable fact that prople's desire for the joy could be contrary to other wishes. Therefore, the justice is the fulfillment of individual wishes in a certain degree. The greatest justice is fulfillment as many as possible the people wishes. To what extent the limit of fulfillment level to meet the justice? The question cannot be answered on the rational knowledge bases. The answers to these questions is a justification of value (judgment of value), which determined by emotional factors and subject to subjective character so that it was relative.

Conclusion

The meaning subject of Philosophy of Law from all definitions has been described are: a). Values contemplation activity (Soerjono Soekanto); b). Hints about the values prevailed in the society (Apeldoorn); c). Theoretical reflections (intellectual) of law (Lili Rasyidi); d). General philosophy that direct its reflections against law and its symptoms (J. Gejssels). The difference of term between Philosophy, Ideology and differentiate between Philosophy, Philosophy of Law and Philosophy of Pancasila. Philosophy is the type of knowledge/science; whereas ideology is way of life. According to Indonesian dictionary the meaning of "philosophy" are: assumptions, ideas, and the most basic mental attitude owned by people or society; way of life. While in the "glosarium" or dictionary the meaning of philosophy according to the Indonesian language teaching philosophy is: way of life, view and fundamental ideas are owned by people or society. The Philosophy of Law review according to Pancasila ideology value in agrarian disputes upon the " Eigendom Verponding" land which taken over by the state giving an intent and meaning on Philosophy of Law in the content values measurement on the Philosophy of Pancasila, that is how to measure what happens in the case of the Eigendom Verponding land ? In realizing the justice, the law is not merely a tool of power, not legitimacy to make exploitation that may constitute the injustice itself. The law does not identical with justice, but aims to make it happen for the sake of people.

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