

**Government Real Estate Exchange in Indonesia:
Review and Evaluation**

**By
Rustanto**

THESIS

Submitted to
KDI School of Public Policy and Management
in partial fulfillment of the requirements
for the degree of

MASTER OF PUBLIC POLICY

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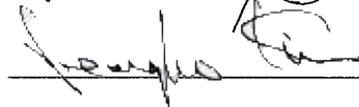
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Approval as of July , 2010

ABSTRACT

Government Real Estate Exchange in Indonesia: Review and Evaluation

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Rustanto**

Real estate exchange in Indonesia has several problems in term of mechanism or procedure and valuation. The arisen problems affect organization socially and internally. The problems need to be solved by enhancing procedures or regulations in the process of real estate exchange process as well as in the valuation process. Socially, the impact of exchange is organized as demonstration and unwillingness of stakeholders such as the owners and other parties of exchange. Internally such impacts hinder organization services and costly more if the case of exchange brings forward to the court. This study is try to address what is the main source of problems in government real estate exchange and how to minimize the impacts.

According to the observed data, real estate exchange problems occur due to the private initiation regarding the late of government zoning regulations to fit the city or area up to the development rapidness. Government offices mostly located at the central of the city are vulnerable for re-zoning or re-vitalization. Some recommendations in this paper are made as a result of case study of real estate exchange cases, and as a solution of exchange impacts. Conform to valuation procedures, on time report delivery and value base clearness are part of recommendations that convincingly able to minimize the number of cases and improve real estate exchange procedure at DGSAM or Ministry of Finance in general.

ACKNOWLEDGEMENTS

After one year study and living in KDI School of Public Policy and Management in two major concentrations, Real estate and Public Policy and Public Finance, I have studied rigorous textbooks and journals.

I would never conduct my research and write this paper without involvement people around me. Firstly, to my distinguish supervisor, Professor Byungho Oh and my thesis writing workshop teacher Professor John Mc Carthy, your kindly comments and correction have guided me through this research and I got a lot of lesson from both of you. Your enormous moral support will be part of my study as well as my life. You paid your busy time for assisting me and you have given attention to help me succeed. Thank you so much to all my best friends for their support. Kurnia-my roommate, Adi Purawan, Benseghir Karim gave me with priceless suggestion and constructive critics for my paper. I have been very fortunate having helpful friends like you. This gracious study and life in Korea is also because of KOICA support and all Professors as well as staff at KDI. I would like to address thank you so much to Professor Yuri Mansuri and Professor Man Cho who supported and advised me to complete my thesis. I would also like to thank Professor David Park as Chair of MPP program for his support and guidance. I have a great peer at DGSAM, this includes my distinguished director Mr. Iwan Hindawan Dadi (the late), Mr. Sugeng Harijadi and Mr.Meirijal Nur, my colleagues in Directorate of Valuation Rohmat, Romy Marchandi, Odi Renaldi and many other staffs I could not name it one by one. Much of thank to Mauludi Ariesto and Ghuftron Zaid PHd Candidates for your moral supports, critics and endless pray for my successful

Finally, I would like to dedicate this work to my mother, without your endless support and love from childhood to now. I would never have made it through this process or any of the tough times in my life. Special for my wife Lutfi Sufiana, my beloved daughters and son Iffah, Wafa' and Hilya, I want to say thank you for your support and love during my living in Korea far from you all, Thank you.

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CHAPTER I: INTRODUCTION

I.1. Background

According to the decree of Minister of Finance (MOF) of Indonesia number 96/PMK.06/2007, article number 10, point 1, there are four major methods of transferring government real estate assets as further process of disposing assets, such as sales, exchanges, grant and government investment. Government real estate exchange is one of four methods of disposing government assets in Indonesia. The government real estate term is defined as any real estate owned by the Government, and its life cycle begins with the procurement or acquisition, operation and development, and ends up in a disposal process.

The selling of government assets means the transfer of ownership of property to another party by receiving cash in return. This strategy is to optimize surplus assets in a manner which is more profitable than retaining assets or follows up on government regulations. Government asset exchange entails the transfer of ownership between central and local governments or between the government and another party (private by receiving replacement assets with similar value). There are many considerations of this type of exchange discussed in this paper.

Under MOF Decree, Government grant is defined as a transfer of ownership between central and local government, or to another party without receiving any kind of asset in return. The reasons for this grant method are either for social activity, religion or humanity, or else they pertain to local government operations. Finally, government investment means the transfer of ownership of the real estate assets from the central government in the form of shares in state

owned companies into enterprises sponsored by the local government, or to state owned enterprises or other organizations for profit.

Organizationally speaking, the responsibility for managing all government assets in Indonesia has been placed under the authority of The Directorate General of State Asset Management, an organization which falls under the purview of the Ministry of Finance¹. The Directorate General of State Asset Management (DGSAM) was established in mid-2007. It is organized and administrated under The Ministry of Finance and is in charge of implementing policies concerning all state assets and state-held assets, and for conducting auctions in accordance with policies determined by the Finance Minister. The overarching mission of the DGSAM is to manage all assets under all circumstances. There are five main elements of the organization's mission:

- To realize the maximization of revenues, efficiency of expenditures, and effectiveness of the state's asset management policies and procedures;
- To protect the state assets by developing and maintaining a database, and reporting on the number and existing value of those assets;
- To realize the fair value of the state's assets, based on various needs as determined by a comprehensive assessment;
- To implement the management of the state's claim in a manner which is efficient, effective, transparent and accountable; and
- To realize auctions as the instruments of government real estate transactions to accommodate the interests of the community.

¹ Minister of Finance Establishment Number : 131/PMK.01/2006, Organization and Administration of Department of Finance.

Sound mechanisms and procedures regarding the structure, quality and performance of these assets should be more effective and efficient in supporting the government functions. Strategically, the function of these mechanisms is to examine the extent to which asset management is conducted effectively and efficiently.

“Real estate” is defined as a parcel of land entailing the owner’s rights to the area above the surface and the soil and minerals below the ground, as well as anything that is permanently attached to this land such as equipment and, facilities developed either by nature or human. In all respects, man-made, permanent attachments are called improvements. (Kyle, 2000)². Furthermore, the exchange of non-monetary assets refers to an exchange based on the fair market value of the asset given or received, whichever is more clearly evident. As a result, any gain or loss on the exchange must be recorded because there is commercial substance to the transaction, and that gain or loss constitutes the difference between the book value of the asset given up and the fair market value of the asset received. There is commercial substance whenever future cash flow changes due to the transaction arising from a change in the economic positions of the two companies. “However, if the exchange lacks of commercial substance, it records at book value the asset given up with *no* recognition or gain of loss” (Barron's Educational Series, Inc., 2005)³.

Compare to three methods of disposing government assets, government real estate exchange is an exchange process involving government properties at all organizational level whereas the other three methods are very straight forward during the process of ownership. It means central government or the original owner of asset should be more active than the receiver in passive at all circumstances. In detail the vulnerability of exchange method are as follows:

² (Definition of real estate, 1996)

³ <http://www.allbusiness.com/glossaries/exchange-nonmonetary-assets/4953570-1.html>

- Exchange process involves at least three parties that is owner of origin asset, stakeholders, and owner of replacement asset. It might needs appraisal's opinion to measure the price of exchange;
- There are more than two parties involve in the exchange process it has potential problems or conflicts due to dissatisfaction of each party.
- To conclude the exchange procedure it needs appraisal's opinion that might prone of bias regarding the value of the assets.
- Majority of government assets are public assets that have stakeholder. If the function is change in place or move to other place, it might emerge demonstration or other social resistant and very often move from economic problems to law issue.
- To prevent such issues, procedural process and clear regulations are needed that far from multi perception or bias and easy to be practiced.
- Valuation issue is one of key success of exchange process so there should be more emphasize on this issues.

1.2. Scope of the Study

Government real estate exchange as one of asset disposal systems in Indonesia does not meant to demolish assets due to their lack of economic value. Rather, it deals with land to changes in its use. However, in some cases where involving buildings that have present physical impairments or lack in maintenance, demolition is selected as a mean of disposal.

The special uniqueness of land itself is said to be derived from its unique location on earth. No two parcel of lands share the same location, and each has a unique latitude (east-west

parallel lines) and longitude (north-south parallel lines) on the globe. (Miller and Geltner, 2001)⁴. It has, therefore, becomes somewhat difficult to find a perfect solution in 'like kind' for assets during the exchange process.

The position of each site, along with the type of property (commercial, office, residential and industrial) as typical functions of real estate are other important factors which naturally induce social problems. When public property changes in type even when it is accepted theoretically and from a market point of view, it may nevertheless present a social sight. Factors that must be taken into account include transportation costs, the types of facilities, environmental considerations, the neighborhood, and accessibility. If such factors are not considered in an acceptable range, this could pose a problem.

The questions that this research is seeking to answer are:

- a. What are the main problems of real estate exchange cases and why such problems do come up or exist?
- b. What is the role of valuation in the exchange process and how effective the valuation process support exchange procedure?
- c. What are the effective mechanisms for government real estate exchange for future base on the best practice and exchange theories, and what are the policy recommendations to address such problems?

In order to answer such questions, the principal problems that must be solved with reference to real estate exchange are:

- Valuations of government real estate

⁴ (N. Miller and D. Geltner, 2001)

- Negative impacts of real estate exchange problems to the social and internal organization; and
- Unwillingness of stakeholders including property owners regarding the under value of their property.

I.3. Study Focus and Limitation

Since the practical aspects of real estate disposal methods are extensive, this thesis focuses in more detail on the exchange process and its impacts. The government of Indonesia is the background for this matter. In fact, the study of government real estate exchange is a part of the DGSAM's role, and as such that organization is one of the objects of research as it enacts the exchange process and assesses the resultant impacts both internally and externally.

The limitation of this study is related to the organization and range of time. Specifically, the DGSAM has only recently been charged as an institution with overseeing the asset management process, organizationally and operationally; therefore, more time is certainly needed to fully evaluate its efforts and enhance its experience to improve its performance. Regarding that brief period of time, cases that have a strong relationship to the exchange process have been relatively few between 2007 and mid-2009, spanning only around 2 years and 6 months. In other words, although this paper is not concerned exclusively with the role of the DGSAM establishment as a government asset manager, the potential of that agency's involvement in this issue well into the future evinces the significance and relevance of study.

Another limitation of this study is that in practical terms, government real estate exchange has not been clearly defined by regulation. On the other side, the guidance of exchange case has been base on best practices or cost-benefit analysis which are sometimes far removed

from the strategy of asset management decisions. This paper, therefore, intends to deliver best practices based on well-grounded theories concerning the real estate exchange process.

1.4. Statement of the Problem

One significant issue in the DGSAM in terms of asset management is the real estate exchange that involves more than three stakeholders – in example a government institution and third parties such as brokers, agents, appraisers, notaries and the real estate owner(s). Owing to the decentralization of authority, either the central government or the local government must confront certain problems. In particular, there is the problem of social impacts concerning real estate exchange, as evidenced by public demonstrations and other expressions of dissatisfaction in response to the government provisions.

Demonstration to protest exchange of public school in Pematang Siantar Sumatra was one of real exchange case. Internally, the exchange process also has several problems regarding the value, wherein the value of the replacement asset does not correspond with, or has lower value compared to the relinquished asset. Certainly, it will take some time to fix such problems, and any remedies will most likely cost money as well.

In other word the highlight of this paper suggests further research of asset exchange as follows:

- a. Real estate exchange process has issues and needs problem solving to prevent problem spread off.
- b. The role of value of asset during the exchange process.
- c. The effective mechanisms for government real estate exchange base on the best practice and exchange theories is necessity, so it needs recommendation policy to address exchange problems.

1.5. Methodology of the Study

The main objective of this thesis is to review and analyze three primary research questions with regard to the operations and management of government real estate exchange in Indonesia: specifically, to examine the reasons for real estate exchange (why and what are the objectives); the mechanisms of government real estate exchange; and the indicators of success in real estate exchange. As a comparison, this paper aims to stimulate awareness of these issues based on theories related to real estate, as well as its analysis.

Typically, the concept of state asset management in Indonesia indicates that government's piece of land cannot be occupied by a private entity without prior legal permission. As such, no transaction involving government real estate is permitted, except when it is replaced with assets that are similar in terms of their dimensions and structure; value; functions; location; and zoning. Currently there is a mechanism or procedure regarding the exchange of assets. Ideally, if the steps for asset exchange are fulfilled, it should be no problem to make a claim for government services, but this is not always the case in the reality. This is because of the procedure may not have accorded with the particular conditions of each region. The problems arising from those asset exchanges are what this paper seeks to identify and address, as follows:

- a. Base on the real cases of real estate exchange this paper describes and derives the main problem of each case and identifies why the problem come up and how to deal with such problems.
- b. The role of valuation of assets as the basic concept of exchange process for all exchange cases and also as ground consideration in relation the value of asset that has been exchanged.

- c. Sift out the exchange regulations regarding the valuation procedure and how such procedure sustains the valuation procedures properly.
- d. Recommendations that it be needed to mitigate the problems rise from exchange process.

To confront these issues, this paper reviews related literatures and analyzes the problematic cases generated by real estate exchange in Indonesia, especially after the implementation of real estate regulations under the Ministry of Finance Act number 96, 2007. The analysis is based in part on accounts from newspapers and other media covering real estate exchange. In addition, this paper makes comparisons between real estate exchanges both practically and theoretically, in order to minimize distortion. Finally, this paper suggests some effective mechanisms or procedures for real estate exchange, based on the results of the practical and theoretical analyses.

1.5.1. Qualitative methods

This paper intends to apply qualitative method by describing and analyzing real estate exchange practices and its impacts. It is internally derived from the organization procedures of exchange process and is based on the current regulation. The data collection is based on the exposed media and even though this paper uses quantitative research methods, the overall research is based on the qualitative format. The qualitative method is preferred in this thesis because of the need to discuss aspects from different points of view, and it will be a more difficult way to find the answer to the research problem. Furthermore it is impossible to answer practical aspects quantitatively because the origin of the problems are varied and occur in so many ways. In discussing the advantages and disadvantages of real estate mechanism, this study extensively refers to the previous scientific literature and studies, however a comprehensive

literature review and comparison was added to this summary to support the overall goals of the thesis.

Statistical testing was not used in the paper due to the fact that data which was gathered from the media for comparison practically and theoretically are more descriptive than exact. This paper will try to answer three main questions of real estate problem namely reducing negative impact of property exchange, finding the disadvantage to be replaced with positive procedures and mechanism and finally finding the effective mechanism of government real estate exchange. After analysis, policy recommendations and conclusions will be made.

1.5.2. Data collection

Descriptive analysis is an important part of this paper as it interprets the problem and best practice that it should be based on. The real estate exchange problems were collected from printed and virtual media that reported the cases to the public. Some media such as newspaper or internet are profit oriented, but this study decided to ignore such orientations. The secondary data being used then be classified, managed and finally analyzed for the purpose of the study.

Function of secondary data for real estate exchange problem

This paper also uses secondary data to get the following information:

- a. Problem comprehension - secondary data would be useful as a supporting tool to understand the problem of real estate exchange, moreover it is beneficial in accordance with information that is needed to solve such problem. In this situation, the secondary data is used to maintain the scope of research and confirm the relevant data.

- b. Problem clarification - we need to clarify the main reason for the problem, furthermore it provides useful information of environmental situation, surrounding the object of research that could identify the issues, given similar condition.
- c. Alternative formulation to solve the problem – to answer the problem, the best choice has been picked from a list of options. Selecting the alternatives will mean filtering options before making decision by considering and prioritizing them.
- d. Problem solution - in addition to defining and collecting secondary data, this paper argues that the problem solution can be created during the process. Secondary data for time series show the trend so researchers could make predictions for the future.

1.5.3. Data Collection Method

Considering the benefits of secondary data, a strategy of data collection is set up in this paper. A systematic method of searching the data in accordance with real estate exchange problem is needed. Several stages of secondary data search strategy are as follows:

- a. Identifying the need

Before the research process is conducted, identify the first stage, by asking the following questions:

- Do we need a secondary data in resolving the problem?
- What kind of secondary data is needed?

These two questions will guide us and speed up the search process so we can save time and cost.

b. Selecting the research methodology

This paper decided to choose a search method involving both manual and online. The manual search method determined the search strategy by specifying the location of potential data, namely: DGSAM in Jakarta and the surrounding area of its operational office. On the other hand, the online search method determined the type of online strategy by looking for database in the Ministry of Finance of Indonesia and central office of DGSAM and using the internet.

c. Filtering and evaluating data

After the search method of our secondary data was completed, the next step was to perform screening data collection. Screening is to select the appropriate secondary data, for suitability. After the screening process is completed, the data collection can be implemented. Evaluation of data is especially related to the quality and adequacy of data. This stage examined the quality and sufficiency of data.

d. Implementing the data

The final stage of the data search strategy is to use the data to answer the problems that we examined. If the data can be used to address problems that have been formulated, then the next action is to complete the study. If the data could not be used to answer the problem, then the secondary data searches need to be done again with the same strategy.

1.5.4. Choosing the Collecting Data Method

Emphasizing the collecting data retrieval method could not be done arbitrarily therefore a more certain method is needed. The means of data retrieval can be either manual, online or a combination of both.

a. Manual search method

So far there are many organizations, companies, offices that do not have a complete data base that can be accessed online. Therefore, we still need to search manually. Searching manually can be difficult if we do not know the method, because of the number of available secondary data in an organization, or vice versa due to lack of available data. The most efficient way is to see the book index, bibliography, reference, and literature in accordance with the issues that will be examined. Secondary data from the standpoint of researchers can be classified into two, namely internal data that is already available in the field and external data that can be obtained from various other sources.

- Internal location, from this location this paper used special database and open database. Specialized databases typically contain important and secret information which is not published. In this condition we hide the identity of the subject for confidentiality. This type of data could be found in the office library enterprise or stored in a internet based server that can be publicly accessed for example documents of government regulation of commerce, news, business journals, company profiles and general data others.
- External Location, external data can be easily obtained. This data is usually available in public libraries, libraries of government offices and universities or the private sector, the central bureau of statistics and trade associations, and usually in

the form of readable standards, such as research directions, list of libraries, encyclopedias, dictionaries, and index of books, statistical books and books.

b. Online search method

Internet technology provides data base that sells a variety of business and non-business information. This database is managed by a number of service companies that provide information and data for the benefit of non-flying businesses and business. The goal is to facilitate companies, researchers and other users in finding data.

This paper employs searching online method because a) save time: we can do so just by sitting in front of the computer, b) completeness: the internet and through media specific portals we are able to fully access the available information at any time without time limit, c) Suitability: we can search for sources of data and appropriate information easily and quickly, d) cost-effective: it saves time and is fast in obtaining the appropriate information leading to a lot of cost saving.

1.5.5. Information Analysis

To analyze the government real estate exchange problem, this study examined literatures on the real estate market and the practical aspects of real estate exchange. Some regulation of real estate management and other practical in the other countries both in government and private sector were also used as a tool. In line with the General Accepted Accounting Principles (GAAP) that guide the accounting aspect of exchange process, weaknesses of each mechanism are discussed and thus the sequence of adoption since each format sought to improve on failures of the preceding practices.

This study states the repercussions of each procedure. Results of the preferred mechanisms are made and lessons that can be drawn from other countries are used as policy lessons for Indonesia and DGSAM in particular. This study focuses only on the problem of real estate exchange, how to reduce such problems, what disadvantages and advantages of existing procedure and what should be improved for the next time by policy recommendations of this study.

1.6. Significance of the Study

The study of real estate exchange gives considerable attention to Government Ordinance number 6, 2006 (Peraturan Pemerintah Nomor 6 tahun 2006), which concerns on the management of government property; and to the decree of Minister of Finance of Indonesia number 96, 2007 (Keputusan Menteri Keuangan Nomor 96 tahun 2007), which deals with the legal procedures for the operation, utilization and transfer of government assets and calls for the effective and efficient management of all government asset transactions. In practice, real estate exchange is a difficult process, in terms of both the mechanism itself and the maintenance of the asset values. On the other hand, social conflicts and other negative impacts inherent in the real estate exchange process have caused the government to expend a great deal of resources which could otherwise have been devoted to more efficient and productive uses.

The first real example of government property exchange can be seen in the ongoing case of senior high school SMA Negeri 4 and SD Negeri 122350 in Pematang Siantar City, North Sumatra. In this case, the Mayor of Pematang Siantar has considered such case as violating some regulations on children's rights to education. SMA Negeri 4 Pematangsiantar has been in session since the beginning of July 2009, along with the new academic calendar. However, the students, parents and teachers have refused to support the exchange with three buildings owned by PT Indah Sari Detis, which would convert the land occupied by the school for use by a hotel and shopping mall.

Indeed, in this case, the Minister of Education said the exchange process of SMAN 4 Pematangsiantar was too hasty and did not accord with the rules and the existing mechanisms:

"That malls and hotels will be built on the land where the school is located does not fit the existing regulations," (Pos, 2009)⁵. The implications of the case apply not only to the resistance of the school as a stakeholder but also to the disturbance of the educational process itself. On the other hand, the local government, as the owner of the property, is facing a problem that has to be solved and will have to deal with it urgently. In addition, DGSAM, as the government asset manager, will have to take this case into account, and it will certainly be costly to solve this problem, especially if the school has to be relocated in the face of public opposition.

The second case concerns on the case of a property exchange was Cruise College (the vocational public school of Cruse) in 1995 that has land size about 100,000 meter square. Its value is Rp 5 million per square meter or totally Rp 500,000 million (around US \$ 50 million). Such land was exchanged by the PT Mandiri Dita Cipta (PT MDC) - the retail private company at a price Rp 1 250 million per square meter. Potential loss because of the exchange was (5 million – 1.25) multiplied by size of land – 100,000 m² is Rp 375,000 million US \$37.5 million. The other problem is stated value is not officially maintained before DGSAM is established. At that time exchange process has to be approved by Minister of Finance based on the property taxable value (NJOP) instead of property's market value. The taxable value of the replacement asset that given PT MDC is only Rp 40.000 per m² located at Marunda (out of the central city), that means since the value of relinquish asset is Rp 1,250 million per m² is higher than Rp 40,000 per m² exchange process will officially agreeable. Government Supreme Auditor (BPK) suspected that the price of the land had been marked up because the value of the state land (vocational public school) area is extremely higher than replacement land value, and exchange

⁵Harian Global Pos, 07 Agustus 2009

process was undervalue. The other problem of the exchange process was the replacement land (in the Marunda area) could not be transferred legally as it was disputed property⁶.

The third case is a real estate exchange for public middle high school Number 56 at Melawai in the middle of 2004. The buyer is PT Tata Disantara and the replacement asset is land and building at Bintaro, South of Jakarta. According to the General Attorney⁷ there are three main trespass named:

- Mechanism of exchange process violated the rules of law. It should need to be approved by the president based on the value of transaction is more than Rp 10 billion. Moreover the mechanism must be auctioned, instead of direct appointed for buyer. While the auction is chosen it will involve at least five candidates of buyer, to meet competitive price.
- Mismatch in value between relinquish land and replacement land due to the different size of land. The size of replacement land only 3,435 m² meanwhile the relinquish land is 4,170. The price of the land in both locations is more than 800,000 per m².
- Reported the value of replacement of land is only Rp 500 million, instead of Rp 1,4 billion according to the sales agreement no. 132 on September 29th 2003. The difference value about Rp 900 million is loss.

Considering the huge value of government assets, the exchange of real estate plays a significant role for the future and highly impacts government finances. For example, real estate constitutes a significant portion of Indonesia's GDP at approximately 11% (Badan Pusat Statistik,

⁶ kapan lagi.com, 19 Juni 2009, <http://www.kapanlagi.com/h/kejati-panggil-paksa-pejabat-orde-baru.html>

⁷ Tempo Interaktif, December 31st 2004, <http://www.tempointeractive.com/hg/nasional/2004/12/31/brk.20041231-51.id.html>

2009)⁸. It comprises construction, professional services, and real estate finance, and it accounts for designing, building, brokering, financing and managing real properties (residential, office, retail, industrial) that are built or traded for investment, while excluding building materials and the construction of public facilities. Its contribution to GDP exceeds those of both durable and non durable goods manufacturing, as well as that of wholesale and retail trade sector.

Furthermore, the value of government assets in Indonesia totaled about Rp 379 billion as of 25 September 2009 (Admin, DJKN , 2009). Those government assets have economic life and certain conditions that have to be disposed. The huge volume of government real estate is also vulnerable to changes in zoning at all circumstances both by private initiations or government regulations as part of city planning and development. Recently, most government real estate has been located in urban centers, and the development of city planning has required changes in zoning regulations in accordance with market requirements or the grand design of the city.

1.7. Organization of the Study

In order to maintain systematical writing and logical understanding, this paper concerns the organization of study as follows:

- Chapter 1 is Introduction of study as the preliminary part of study figuring the real estate exchange and its problem in general form and brief descriptions of government asset disposal notably exchange as the main purpose of research study;
- Chapter 2 is Literature survey or review as ground of both theoretical and practices and also frames work of standard to commit the most effective way of exchange process.

⁸ BPS Indonesia 2009

- Chapter 3 is analysis of real cases of real estate exchange in Indonesia for certain periods. It indicates the real estate exchange problems are most important than other disposing methods of government real asset.
- Chapter 4 is conclusion and policy recommendations based on the result of summarizing and analyzing of real estate exchange cases and issues. Conclusion means extracting the issues into the understanding for raising the recommendations for further actions and policies.

CHAPTER II : LITERATURE REVIEW

II.1. Real Estate Exchange Cases

This study has referred to several sources dealing with real estate exchange cases, by presenting three cases eliciting various kinds of problems from 1995 to 2009. The most frequent cases are those involving undervalued assets or properties received by the government or called replacement properties. The other cases are caused by non-procedural mechanisms of exchange raising citizen opposition because of unwanted replacement properties. The role of value of property got special attention especially for government auditor and it causes potential issues in journalistic point of view. It perhaps the value of the property involved in the exchange are undervalue or far from market value. The role of DGSAM in cases is significant. In line with value DGSAM has role to generate the stated value of government or designate government property. In term of social conflicts DGSAM has prominent authority to design the acceptable criteria of replacement asset, moreover in term of procedural exchange. The key of policy in exchange process generates from DGSAM as government asset manager.

This paper also pays close attention to the details of each case involving problems in the area of real estate exchange, and most of those cases have not been fully resolved. That means that the cost and time consumed in dealing with each of those cases can be considered as inefficient. In terms of the value of the property that has been exchanged, this potentially amounts to around Rp **236,878,105,250.00** or US \$23,687,810. The peak of real estate exchange cases was during 2000 to 2005, which consists of 50 % of recorded cases.

II.2. Previous Studies

Real estate exchange is the only issue regarding real estate problems. Some previous studies were conducted with respect to considering real estate and other property from different points of view. For example, Antti Lukito aimed to describe the main reasons for the major corporate real estate disposals carried out in Europe and also to identify how corporations had been able to meet the goals set for the disposals, as well as the impact of those disposals on their performance. The corporations' main achievements and difficulties during and after the disposal processes were also discussed. Lukito's thesis also included views on how the market for real estate sales and leasebacks might develop in the future in Finland. Based on the information gathered from previous European real estate disposals, Lukito's doctoral thesis built a framework which corporations could employ in their formation of decisions about their real estate ownership (Lukito, 2006). This study also focused on how companies could make proper decisions with respect to the disposition of their assets, and how these decisions might at times induce problems that led to the deterioration of the companies' performance. In term of organization performance disposing of asset has direct impacts on diminishing company reputation. In comparison to state asset disposing in this thesis that focuses on procedures and mechanism of exchanging asset, Lukito's thesis concerned on the performing market understanding before the decision of asset disposing being executed. Corresponding to this paper how disposing asset has significant role moreover decision related to this matter even could impact to the reputation of organization. As well as government disposal asset decision needs precise procedure to maintain performance giving services.

In another study entitled “Thesis in Real Estate Investment Trust (REIT),” Zhilang Li⁹ discussed about real estate investment as one of type property ownership purposes. In such research “attracting more attention globally, as its superior performance and advantages of investment in particular property, and how to recognize gain and other beneficial aspects step by step”¹⁰.

and more She implied that *“several problems and weak points were either inherent in REIT itself or caused by the operation of REIT operation and management have been observed in some developed REIT markets, which could probably curb the pace at which newly launched REITs and REITs to be released grow. By compiling the available literature from the Internet and statistical sources, Li’s paper conducts several comparisons between two mature REIT markets and three dramatically growing Asian REIT markets, aiming to review and analyze in turn the three primary issues with respect to REIT operation and management. They are financial strategy, internal management and corporate financial disclosure. Furthermore, it aims at stimulating awareness of these issues for either developing REITs or forthcoming REITs, and also helps those REITs avoid or minimize the inevitable hurdles and keep them going forward healthily”*.

By considering the cases of three countries – the United States, Australia, and Hong Kong – Li concludes that the performance of real estate depends on internal management, market conditions and social aspects. (Li, 2008). In DGSAM case, one performance measurements is social perceptions to the services provided by DGSAM such as exchange at all circumstances. This paper tries to examine how the transparency of exchange procedure construct social perception and how to mitigate the problems as source of positive constructive perception. Qualified internal management and

⁹ DGSAM as the asset manager of government assets has special mission not only manage asset and its usage at all stages but also should play and focus on proper decision even though during disposing asset. If there is opportunity to get gain on the investment method, they should as well as consider that exchange asset has same opportunity. The accomplishment in such matter could be deliberated as good performance achievement of asset manager.

¹⁰ Li, Z. (2008). An Analysis of Key Points in REIT Development Strategy. *Master Thesis*

operation are value to assure high performance in market and social at all type organization both private and government. Critical condition is while part of procedure and mechanism during disposing asset. In term of governmental aspects such pre requirement is important and critical in social point of view that will be part of critical considerations of this paper.

Furthermore, according to Li, with regard to the presence of real estate, the key issues of asset management are strategy, disclosure and awareness of environmental conditions from the standpoint of both markets and social aspects. From these studies we may conclude that successful asset management throughout the process, not only at the disposal stage, has to be planned accurately through long term strategies and soundness in operations (both internal and external). In addition, it entails addressing such positions in light of social community firms and markets. However, this thesis also uses concept of disclosing procedure and mechanism of exchange as significant strategy and environmental awareness of community regarding the fully social understanding before birthing exchange decision.

Some issues involving the exchange of real estate refers to previous studies with respect to the internal performance, in terms of asset management regarding to the preliminary decision to assure the proper action on disposing assets and investing funds into real asset investment. Also the backgrounds of such studies were company as commercial organization while primary orientation is profit. This paper is trying to accomplish some theory of real estate exchange internally and externally setting in the government point of view. The main goal of managerial process is for servicing and maximizing value to the public. But it does not mean corporate and government is totally different. Some aspects of servicing are similar, for example to give optimum treatment to the external parties or in the other word provide excellent services.

Real estate manager has responsible for maintaining proper managerial process regarding to the real estate cycle life in all phases. DGSAM is government real estate manager in particular

position that has to deal with all stages of asset cycle, start from procurement until the end of stages disposing assets. Previous studies have not discussed more detail of real exchange and its impacts instead of disposing and investment on real estate, in other understanding the area of discussion is on the potential and performance of real estate.

Real estate exchange article has been written by Russell J. Gullo states misconception of exchange. There are myth and misunderstanding that exist due to the gain and taxes. It has been obstacle such transactions to restructure as an exchange.

“Under the Section 1031 with the provisions of Section 121 of the Internal Revenue Code, in United States which governs one’s principal residence. Section 121 allows the taxpayer to dispose of their principal residence and since the gain (profit) between is not exceed by \$500,000 or less there is no capital gains tax on the unit occupied by the owner. In the case of the owner-occupied double or duplex only the one unit has the protection of Section 121.” (Russell J. Gullo, 2009)¹¹.

In the reality especially in the United States the similarity means parcel of land to parcel of land or duplex to duplex. In fact some conditions are the same as in Indonesian context. The key point is like kind should be understood in terms of nature of assets. Quality or grade of property is only one important but not significant aspects of real estate, refers to the accessibility and neighbourhood analysis. As long as the valuation and feasibility study is conducted properly it will mitigate the risk of dissimilarity, this is what this paper states for.

Val Valentini¹² writes an article regarding the barter currency in exchange, he states there are 500 barter exchanges in the US and 1,000 worldwide. Moreover, “each exchange has its own currency that the members use in transacting business. The value and marketability of any

¹¹ Real estate exchange practiced in United States has strong correlation under Section 1031 as the source of income tax that has to be occupied by the duplex or double owner in the investment or property exchange. That means that gain or profit is one of transactions that has to be admitted during exchange process, the other misconception in exchange property is the meaning of like kind property. Like-kind refers to the nature or character of the property, not to its grade or quality.

¹² Founder of RealEstateOnTrade.com and Sierra Trade Exchange

currency is determined by the availability of products and services in that particular system'. The main issue of the barter currency is while the exchange transaction at inflated prices as a result, there is a deficit in the system because there is an imbalance between what came into the system and the dollar amount that went out. It will be similar if the exchange makes barter loans. Val Valentini suggests encountering such problem by operated real estate on trade system (REOT). There are three conditions to make exchange smoothly such as trusted traditional bank (as a mediator); allows the dynamics of barter to work to the advantage of the participants and can be used both by real estate and barter people.¹³ According to this paper currency for world wide transaction has impacts only for direct involvement parties of exchanges not to stakeholders, therefore such issues is not considered as part of exchange aspects, because Indonesian real estate exchange process is dealing with domestic or regional scope.

II.3. Theoretical Background

According to the real estate theory there are two types of exchanges: similar exchanges and dissimilar exchanges. A similar exchange involves the exchange of one asset for another asset that performs the same type of function. Trading in an old delivery truck to purchase a new delivery truck is an example of a similar exchange. A dissimilar exchange, which is less common than a similar exchange, involves the exchange of one asset for another asset that performs a different function. Trading in an old truck for a forklift is an example of a dissimilar exchange.

Exchange based on the fair market value of the asset given or that received, whichever is more clearly evident. As a result, a gain or loss on the exchange is recorded because there is commercial substance to the transaction. The gain or loss is equal to the difference between the book value of the asset given up and the fair market value of the asset received. There is

¹³ Barter currency will be a fundamental mainstream for exchange both in national and international level, and it really relevant to the DGSAM for facing the global exchange transaction.

commercial substance when future cash flows change because of the transaction arising from a change in economic positions of the two companies. However, if the exchange lacks commercial substance, we record at book value the asset given up with *no* recognition or gain or loss. (Exchange Non Monetary Assets, 2005)

Based on the Financial Accounting Standards Board (FASB) during December 2004 FASB issued Statement No. 153 on Exchanges of Non- Monetary Assets: “*An Amendment of APB Opinion No. 29. SFAS 153 is effective for fiscal periods beginning after June 15, 2005*”.

This article summarizes :

“the key provisions of the new statement and provides examples of the required accounting. The new statement no longer makes a distinction between “similar” and “dissimilar” productive assets; instead accountants are now required to assess the commercial substance of the transaction. The FASB defines commercial substance as a transaction in which the future cash flows of the entity are expected to change significantly as a result of the exchange. For those exchanges that have commercial substance, the non-monetary assets should be accounted for at fair value with the appropriate recognition of gains and losses. However, for those exchanges that lack commercial substance, the assets are accounted for at their general ledger carrying value”. (Dr. John J. Surdick, 2006).

Valuation aspect in the real estate exchange is one of important thing to assure and measures for both relinquish asset or replacement asset. According to Julia A Banks and groups real estate management plant has to consider factors of asset itself and tend of asset in the market, furthermore “a logical deductive, intensive analysis of all factors related to a property (sequences) such as regional analysis (general economic and demographic conditions, as well as geographic features of the area surrounding the property, are outlined in a regional analysis Trend signal of future growth and opportunity, little or no change from current conditions, eventual decline and government social climate”.

Valuation process has to observe property include neighborhood analysis encompass the boundaries or constructed barrier such as lakes, ravines, railroad tracks, parks and streets at all circumstances. Generally to cover such matter appraisers do inspections. The other significant of valuation procedures are property analysis specially:

- building size;
- conditions;
- common areas (floors, floor coverings, lobbies, entrance halls, elevators);
- tenants individuals spaces (lay out, exposures, view, feature);
- occupancy;
- curb appeal (visual impression, age, architecture style, grounds, layout, approaches, public space)
- building to land ratio;
- compliance status (environment standards, disability acts);
- current management;
- staff;
- financial integrity (status of property respect to net operating income -NOI, level of debt)

Market Analysis is concern to gather information about specific comparable properties and compare to their features to those of the subject property. (Julia A Banks, CPM, Stephen M Cary PM, Laurence C Harmon, CPM, Cher R. Zucker-Maltese, CPM, 2001)

Highest and Best Use (HBU) concept shows that the value of the property is directly proportional to the use of the property, or in other words highest profit potential lies and with

what use of the property. There are four measurements to analyze the value of property according to this concept. The first thing to determine in the analysis is what is legally permissible. Zoning and government regulations must be considered. Neighborhood deed restrictions are also considered. So, the plot of land would not make the most valuable if built building on it if it is in the middle of a neighborhood that does not allow it. Getting a highest and best use analysis is a good way to take advantage of the extensive knowledge, experience and expertise of the analyst. The second is physically possible, that means any potential use must be physically possible given the size, shape, topography, and other characteristics of the site The third concept is financially feasible, that means if built or not built certain building not only find out what it would cost to develop a site, but also which type of development would result in the highest market value. The fourth concept is maximizing the productive use of the property. Base on this concept, guide to the most profit to develop property to find the highest income¹⁴. The bottom line is that a highest and best use analysis helps us which property use will net the highest property value, but which use will help us gain the most profit from the development.

The United State practical aspect regarding the real estate exchange is pretty different that special state in the **Section 1031 of the** internal revenue code:

“the properties exchanged must be held for productive use in a trade or business or for investment. Stocks, bonds, and other properties are listed as expressly excluded by Section 1031 of the Internal Revenue Code, though securitized properties are not excluded. The properties exchanged must be “like-kind”, i.e., of the same nature or character, even if they differ in grade or quality. Personal properties of a like class are like-kind properties. Personal property used predominantly in the United States and personal property used predominantly elsewhere are not like-kind properties”. (Wikimedia Foundation, Inc, 2009).

According to this regulation there are two majors of exchange property. First is exchange for investment property that exchange procedure occurs on the productive property (generate income) or property that used in the trade or business (relinquished property) for ‘like-kind’ real

¹⁴ The Appraisal of Real Estate, 12th Edition, by the Appraisal Institute

or personal property that will be held for rental or investment purposes, or that will be used in your trade or business (replacement property), in this case will defer capital gain and depreciation recapture income tax liabilities. Second, is involuntarily conversion either from an Eminent Domain proceeding (condemnation by the government) or destruction by a natural disaster, such as an earthquake, hurricane or fire, can be exchanged on a tax-deferred basis for 'like-kind' real or personal property that is similar or related in service or use. The US regulation in particular situation stand on the owner property or private. Turning such situation into the government point of view, the involuntarily exchange maintains 'like-kind' concept of exchange. How far the 'like-kind' is should be define according to the market value of the property.

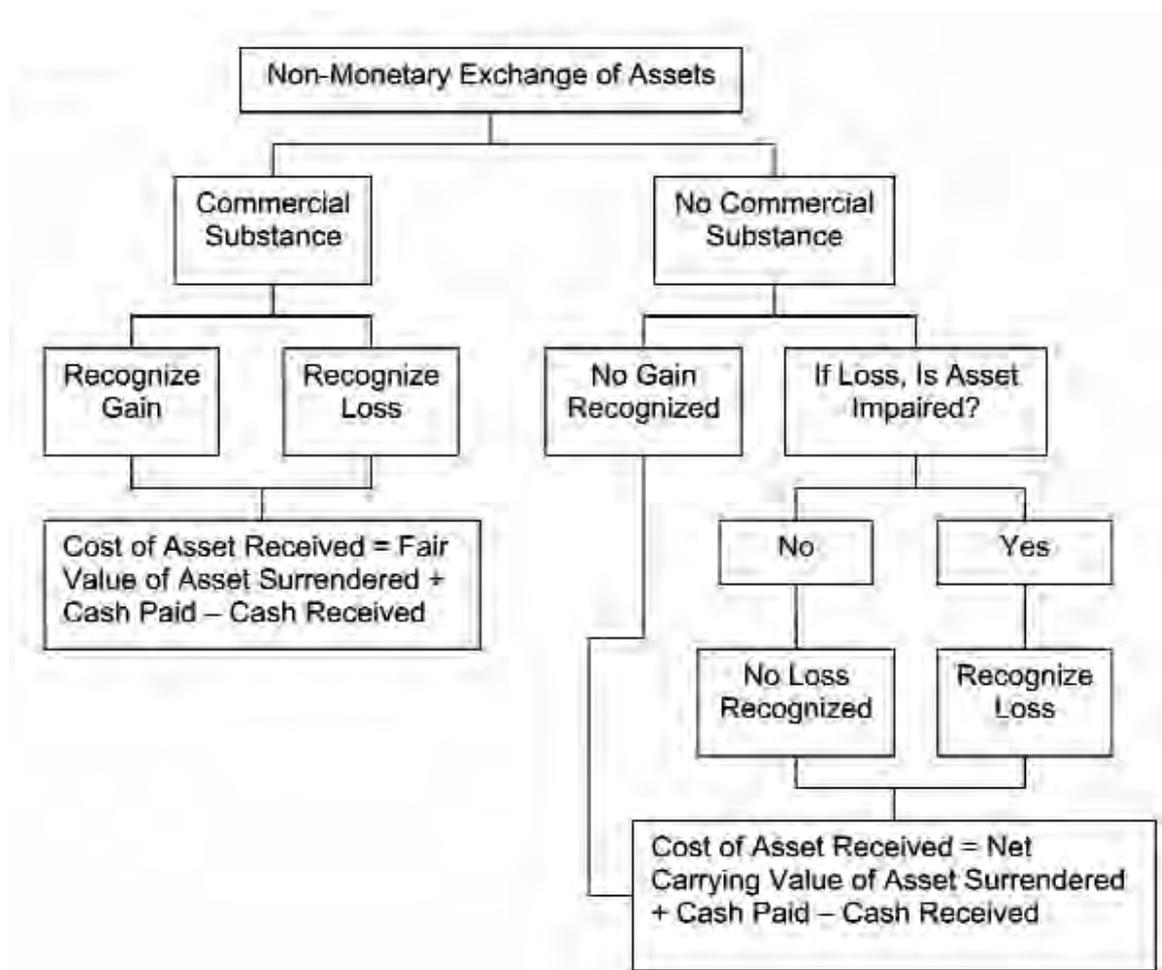


Figure 1 Non Monetary Exchange asset

II.4. Summary of Literature Review and Theoretical Background

Cases of real estate exchanges are significantly in amount and treacherous in term of asset management context. Further study related the reason of exchanging property has to be done to prevent worse condition because it will impact not only social aspects but also future governmental performance, on the other hand to attempt clean government and good accountability need to be forced at government service all circumstances.

Previous studies have not addressed the direct impact and feed back of company's decision regarding the disposal of its assets or operation and investment. Moreover has not fully considered the role of site and market analysis as a significant aspect before making any decisions. Nor has it addressed if they patronize the company for profit as setting of asset management. This paper condenses the role government asset manager to handle issues of real estate especially when several properties are going to be disposed by exchanging to the other real estate.

The theory of real estate exchange shows the principles of exchange in term of commercial company. Some adjustments should be built while it applies in the government sector. The main measurement of effectiveness government services are not how the financial benefit gain instead of performance during producing goods and or services. Success indicators of real estate exchange will be achieved by satisfying some criteria of real estate exchange procedures and positive impact of such mechanism.

Valuation is an important aspect in the exchange process to determine similarity of value that considers not only conditions of property but also surrounding area of property, market tend and other economical aspects, including highest and best use analysis. As well as valuation has a

significant ground in line with final decision of exchange process. Without valuation of asset to be exchanged

Best practice in the US government in exchange real estate keeps the similar value of the property that be exchanged. It is hard to find the same value of assets, because each real asset has unique and heterogenic situation.

CHAPTER III: ANALYSIS

This chapter presents the study results of real estate exchange and its relevant information in line with cases of real estate exchange in Indonesia. In order to deliver information and to minimize bias to the problems, this part is presented into three sections. The first section contains information and analysis of exchange case. In this part the cases are analyzed deeper and deliberated all aspects of each cases, the reasons, the involved parties at all circumstances and the analytical review of problems. The second section is the evaluation of exchange standard and preliminary solutions and recommendations of exchange process in DGSAM compare to the best practice and asset management including summary and highlights. In this part the existence of DGSAM was examined especially during the initial time of establishment. The third section details the analysis of real estate exchange problem utilizing a framework of real estate exchange. According to the previous parts more detail of each case are as follows:

Descriptions of each case:

Finding the data of government real estate exchange cases starting in 1997 to 2006 before the establishment of DGSAM and after 2007 or after DGSAM took over the management of government assets. The cases of real estate exchange that rise problems are:

Case 1

The ground of the case was not city planning of Pemantang Siantar instead of private initiation for proposing business plan to built commercial centre such as supermarket and malls. According to the collected data the initial process of exchange came from PT Detis Sari Indah (PT. DSI - the private company) that would exchange Local Government property – public Senior High school (SMAN 4) located at Jl Sutomo, Jl. Patimura and Jl. Merdeka (Adjacent to the three

streets). The national newspaper said "That malls and hotels will be built on the land where the school is located because currently it deemed not satisfies the existing regulations," (Pos, 2009)¹⁵. The investigated information from Corruption Eradication Commission (KPK) indicated that the owner of the property is not Municipal Government of Pematang Siantar but Provincial Government of North Sumatra. Moreover such process has been taken under City Government control. The replacement property would be land and building at Jl. Gunung Sibayak in the edge of city. The appraiser PT Procon informed the value of relinquish asset (public school) is Rp 35 billion and the replacement asset (owned by PT. DSI) is Rp. 45 billion. Due to the relocation to the new place, the students' guardians refused if the school location would be in the remote area. The exchange process was on approval The Assembly at Municipal Pematang Siantar (DPRD) base on the value presented by PT. Procon.

The issues of exchange are:

- Dispute of the owner of property has been exchanged and the authority for approving;
- Dispute of valuation of asset;
- Public refusal because of school relocation to the remote area;
- Procedure and mechanism of exchange

The actors of the exchange process are:

- Government : Province (the owner) and Municipal (the user)
- Third party : PT DSI (as the owner of replacement asset)
- The independent appraiser: PT Procon
- Stakeholder such as students and their guardians

¹⁵Harian Global Pos, 07 Agustus 2009

Asset involved in:

- Relinquish property owned by provincial government land and building size 24.621 m², value Rp 34.956.967.000, located at Jl. Patimura, Jl Merdeka and Jl. Sutomo.
- Replacement property owned by PT DSI, total value Rp 45 billion located at Jl. Gunung Sibayak,
- Taxable value of relinquish property is Rp 60 billion.

Lesson Learned:

- a. The ground of exchange did not be based on the government city planning, but initiated by the third party (PT DSI) that concern on their own economic business.
- b. Mechanism and exchange procedure against the rule, according to the article number 48 of Government Act (Peraturan Pemerintah) Number 6 Year 1996, the exchange principal permission should be on approval of The President if the value base of property more than Rp 10 billion and has to be taken and proceed by Ministry of Finance not Provincial Government Pematang Siantar.
- c. One of the central issues of exchange is value of assets. The decision for exchange refers to the taxable value, instead of market value. Even though the value of replacement asset is over the relinquish value it has not got approval, because according to the taxable value is higher than replacement asset exchange value is over from the replacement value it has not been approved. The taxable value is only for taxation purposes and it makes bias in value if applies on as the nature of exchange decision.
- d. Stake holders refused to be relocated to the new school, due to not suitable according to additional transportation cost.

Case 2

First of all the second case is initiated by private company as well, PT Mandiri Dita Cipta (PT MDC) - the retail private company would build shopping centre for its operation. This case happened in 1995. The government assets that would be exchanged are Cruise College (the vocational public school of Cruise). The property has size about 100,000 m² located at Gunung Sahari Street. Such location is commercial area but The Government has not changed zoning as the current situation instead of educational or residential zone. The replacement asset would be in Marunda, very far from Jakarta CBD.

The Actors

There are four main actors in the exchange named Government as the owner of property, PT MDC as the third party and the owner of substituted asset at Merunda and finally stake holder consists of pupil and students.

The Issues of exchange

The problems of exchange claimed as property problem not only value but also legal aspect of ownership. The issue related to the value indicated that the market value of relinquish property is Rp 5.000.000 per m² or totally it has potential loss about Rp 7 billion because of value exchanged asset is higher than its replacement. The next problem is regarding to the procedure of exchange. Refers to the Ministry of Finance regulation number 350 year 1994, states exchange buyer selection should be based on the auction process to select the buyer, on the case the buyer were appointed directly or single buyer. Without auction process price competition will not be created besides unfair procedure.

Lesson Learned

- a. The ground of exchange was not based on the local government city planning, but initiated by the third party (PT MDC) that concern on their own economic business.
- b. The exchange procedure violated the rules of law, according to the Ministry of Finance regulation number 350 year 1994, the exchange principal on approval of The President if the value base of property more than Rp 10 billion and the procedure must not by direct appointed for buyer, it should be auctioned to meet competitive price.
- c. One of the central issues of exchange is still on value of the asset. In this case is mismatch value, where the there is under value of asset to be exchanged, or in other words The Government is victim of loss by Rp 7 billion because of such case.

Case 3

The real estate exchange happened on public middle high school Number 56 (SMU) at Melawai in the middle of 2004. Melawai is located nearby central business district of South Jakarta. The buyer is PT Tata Disantara and the replacement asset is land and building at Bintaro, South of Jakarta (at the edge of CBD). According to the General Attorney¹⁶ there are three main trespass named mechanism, value and governmental loss.

The actors

There are three main players on this case they are:

- Local government in term of school property as the owner (exchanged property);
- PT Tata Disantra as the owner of replacement property;
- Stakeholders, school pupil and students

The issues of exchange

¹⁶ Tempo Interaktif, December 31st 2004, <http://www.tempointeractive.com/hg/nasional/2004/12/31/brk.20041231-51.id.html>

General Attorney said that the first issue regarding the procedure of exchange, as previous case exchange buyer was appointed directly without auction process. Such mechanism against the rule Ministry of Finance regulation number 350 year 1994. Another issue regarding the rule is because of the value of transaction is more than Rp 10 billion, it should to be approved by The President. Mismatch in value between relinquish land and replacement land due to the different size of land is the biggest second issue. The size of replacement land only 3,435 m² meanwhile the relinquish land is 4,170 m². The price of the land in both locations is more than Rp 800,000 per m². Reported the value of replacement of land is only Rp 500 million, instead of Rp 1,4 billion according to the sales agreement no. 132 on September 29th 2003. The difference value about Rp 900 million is loss.

Lesson learned

There are three lessons learn from third case:

- a. Nature of the case was not government city planning instead of private initiation (PT Tata Disantra). It will be better and more controllable if government takes into the exchange process as the initiator, as well as enough time to build feasibility study for better price and better replacement asset.
- b. Mismatch in value because of base value of price and land size which narrower than relinquish asset about 735 m² that has value Rp 900 millions. It should because of shortage of time to find the proper substitute property;
- c. There is no monetary loss compensation while suffered by government (indemnity) comes from such loss. It has to be solved before dealing with case completely. The regulation about compensation has not been arranged by government to overcome such situation.

- d. Students as stakeholder have been interrupted because of relocation and rejection for new place of study. Civil victimizing especially students is most cases and intolerable because of business reason.

Three previous cases showed real estate exchange with various impacts to government. None of cases came up as a consequence of government regulation in term of zoning. This particular situation is part of an urban development phenomenon. Urban development is the main aspect of government development process that has transition process to adapt from the previous type of property into the most suitable type according to the local situation and surrounding area. But in the reality private sector are most reactive than government planning.

Government real estate or property has different types and fit to the environment or neighborhood for example residential, office, industrial and commercial. The type of property itself will be concluded as part of the environment situation. The fittest type asset for residential house and likewise for office neighborhood is for office type of property. The other sources¹⁷ of data shows that about 20 % is commercial property, 13% is government office, 27 % is public facilities including schools, 7 % is military asset and around 33 % is government property in other categories. In such cases other categories include vacant land that has no proposed function as yet.

¹⁷ Data collected by author from recapitulation of government exchange cases in Indonesia.

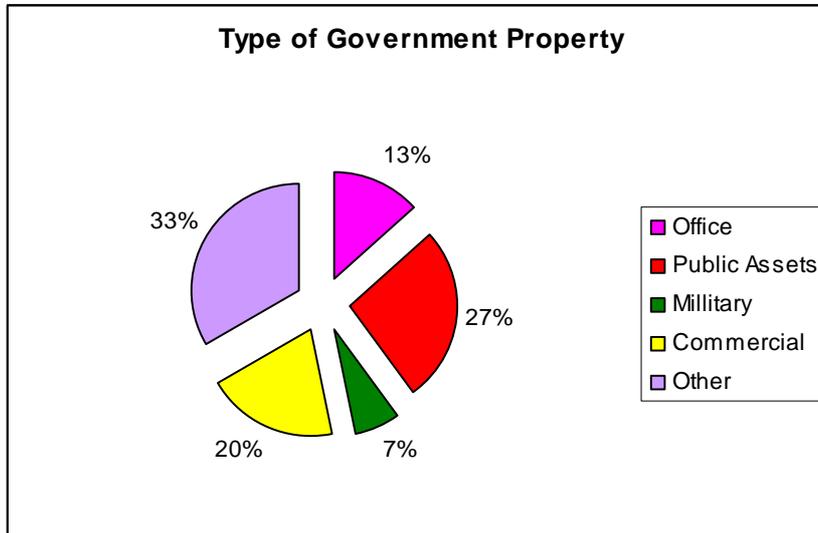


Figure 2 Type of Government Property

On the other hand the majority of real estate exchange problems were regarding the unmatched value of exchange in term of undervalue of the asset that was received compared to the relinquished asset about 75%. The social direct impact of exchange was not because of undervaluation but due to the unsuitable relinquished or replacement asset. Social problem from the data were public resistant because of increasing transportation cost or unsupported facilities for the public asset after relocation. In other words the economic background (about 8%). The procedure or mechanism that is related to the exchange process occupied 17 % of cases. This problem concerns transparency process, unfair procedures about which the public can easily access the information and far from secretly transaction. The data that is gathered before the establishment of DGSAM indicates that one of the missions of the organization being to minimize such matter. This paper will make comparison before and after DGSAM establishment as well.

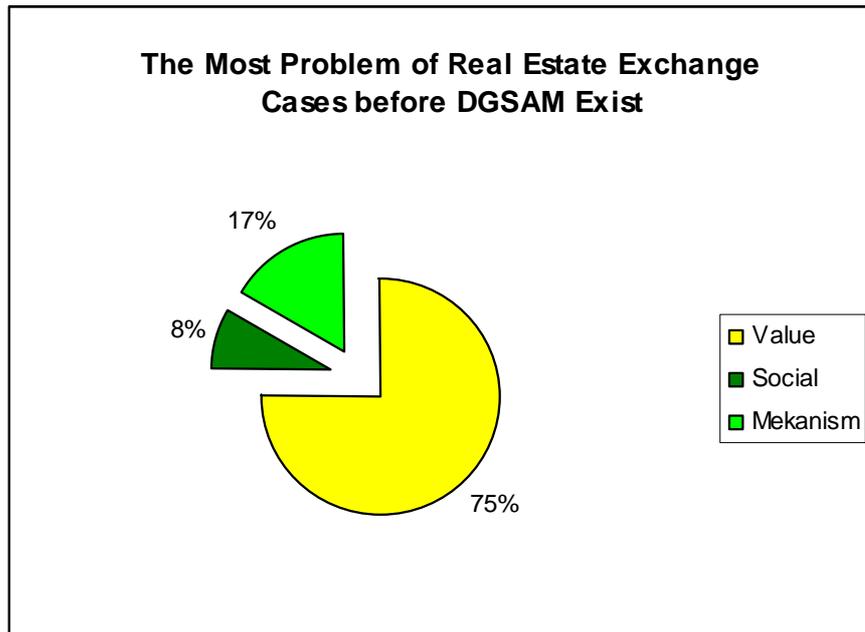


Figure 3 The Major Problem of RE Exchange Cases before DGSAM Exist

III.1. Real Estate Exchange Problem and Presence of DGSAM

The main mission of DGSAM as presented in the previous part of this paper is to realize the fair value of the state's asset and this can be based upon various needs of the assessment. Accomplishing this mission is based on the fair value of government asset, or in other words government asset can not disclose state balance sheet other than fair value. When the properties are exchanged the value could not be less than the fair value of relinquished asset. To realize the maximization of revenues, efficiency of expenditure and effectiveness of the state's assets management, the best way is by implementing effective, efficient and accountable mechanism related to the various transactions of government asset. Based on the data of real estate exchange case the problem due to the procedures and mechanism did not exist after 2007. The data shown before 2007 has the problem of real estate exchange mechanism or procedural about 17 %, the social problem was 8% and the highest problem was due to the undervaluation 75%. The

condition changed after 2007 where the problem of mechanism or procedural was 0%, on the other hand existing social problem 25% and remaining 75 % was undervalued.

III.2. Analysis of Real Estate Exchange Cases

Reading the data, there were three important factors of real estate exchange problems. Firstly, the reason of the problems, secondly, the type of government property and finally the presence of DGSAM in term of direct impacts. According to data and three analyzed cases, there is one reason why exchange of real estate persists, the initial of exchange mostly by private sector instead of government as regulator. Environment issues and zoning arrangement are government concern in. Zoning is one of development figures. As a country, Indonesia is still being developed. The trigger factors of development is agglomeration economic activity near the seat of power in highly centralized political system and resulted in the rapid growth of the manufacturing sector in the Jakarta region and these process were followed by other regions. (Indonesia has 32 regions or province). Other region specific characteristics that influenced industry location decisions include local labor costs and administrative policies that support or obstruct business development such as regulation, taxation and amenity provision. A range of registrations, operating licenses (e.g., zoning permits or environmental impact assessments), minimum wage and employment regulations, and taxation can influence the cost of doing business in a particular location (Uwe DeichmannKai, 2005). The localization of the economy and development process will lead Indonesia to a zoning regulation progress that is more relevant and which will change overtime, during its development process. Indonesia has a high potential in agriculture which is based mostly in western Java. Urban economics describes the benefits that firms obtain when located near each other. This concept relates to the idea

of economies of scale and network effects. Simply put, as more firms in related industries cluster together, costs of production may decline significantly (firms have competing multiple suppliers, greater specialization and division of labor result). Even when multiple firms in the same sector (competitors) cluster, there may be advantages because that cluster attracts more suppliers and customers than a single firm could alone. Cities form and grow to exploit economies of agglomeration.

There are three main reasons why the real estate exchange can cause problems - value, geographical factor that impact on social cost and the mechanism of exchange. Under valuation of real estate between property that is exchanged and property that is received was predominant. Real estate is unique compared to the other products or service while involved in transaction or exchange. The other products or services can be found wherever there are willing buyers and sellers of those products and services. The products themselves and the people who provide the services can be transferred from one location to another. While land is fixed in location, owners of real estate may not be local. Large commercial properties in particular are traded at the national level and in the international markets, however, the ultimate users are local. The value of land in the local market depends on its use and any improvements to it. Because buildings and other improvements in land have a long physical life, the commitment to a specific use is not readily subject to change. Land use is affected by many things, among them industry, population and highways and supply and demand. (Julia A Banks, CPM, Stephen M Cary PM, Laurence C Harmon, CPM, Cher R. Zucker-Maltese, CPM, 2001). The condition of real estate makes deliberation before transaction important and it needs feasibility evidence.

The second highest reasons of real estate problems are geographical location of property. Sometimes the replacement asset is totally different physically and geographically. If the

exchange of property is asset public it may cause social problem. Citizen resist relocation because of additional transportation cost, facilities, electricity, security and rural situation. Real estate is immobility, indestructibility and non homogeneity in characteristics. Once the size of a parcel of land is established, the legal nature of the land is also established with respect to mineral and air rights. The knowledge of legal concept of land is important for making an analysis of its physical characteristics. This point can be reemphasized by saying that the location of the mineral rights and the air rights could not be moved even if the surface is moved. Land is indestructible in the sense that movement of the surface does not destroy the full package of rights. Moreover, other deliberate human acts, as well as of nature, are not capable of destroying land in its legal sense. Land cannot be destroyed because its location cannot be destroyed. Land is non homogeneous. Each parcel of land can be distinguished from all other parcels of land on the basis of several physical characteristics. The size and shape can differ. The geological features of elevation, slope, drainage capacity, mineral composition, soil fertility and bedrock characteristics can be different. (Donald R Epley, 2002) The characteristic of land and its improvement can be a problem during exchange process, the integrative analysis to the subject of exchange and the replacement asset should be conducted properly to minimize such problem.

The last reason of real estate problems is the procedure of exchange. According to the Ministry of Finance Act number 96, 2007 the process of real estate exchange can be describe as follows:

Real estate exchange basic requirements,

Real estate that can only be exchanged due to the following circumstances:

- a. Real property that has not been suitable according to the zoning regulation or city planning.
- b. Real property that has not been optimally operated by the government institutions;
- c. Real property that has separated by locations or geographical sprawl.
- d. Government strategic planning;
- e. Real property that is out of date in term of technology, government necessity or state acts.

Procedure of government real estate exchange, graphically as follows (briefly):

- a. Asking for exchange from local/region/institutions where property is under control to Ministry of Financial (c.q. DGSAM) including data requirements such as:
 - Considerations / deliberations, local zoning regulations, data of relinquish property and the value of property.
 - Characteristics of replacement property land and improvements;
- b. Feasibility studies in all circumstances of relinquishing the property and due diligence of exchange requirements.
- c. Ministry of finance principle approval.

Executive team formation of exchange process to operate exchange process.



Figure 4 Graph of Exchange Process

The current procedure in reality needs more attention regarding the requirements and process of each step that not as simple as the graph. The procedure part of the problem is transparency process of exchange at each stage as shown in the previous graph. The role of government during exchange process gives its consent. The approval from government is mandatory for the next process. Giving the stipulation require deep analysis and special feasibility study. This part will be discussed on the conclusion and recommendation chapter base on the theoretical and best practice.

III.3. Disadvantages of real estate exchange in Indonesia

Data of real estate exchange case shows the disadvantages of current real estate exchange in Indonesia. Nevertheless, there are other weaknesses such as time period of exchange, using

term of value base on the taxable value of property instead of market value, and non cash transaction for different value between relinquished asset and replacement asset.

Time limit is a tool decision to measure efficiency or effective program. It refers to the regulation of real estate exchange and when it is not clear, still focus on the mechanism and administration requirement. It is no wonder that during exchange process, a lot of time is taken to finish and complete the process. Only when the exchange agreement has been signed, legalized and delivered of such asset will indicate the end of process. "To successfully complete 1031 exchange must meet certain deadlines, which consist of the 45 calendar day identification deadline and the 180 calendar day 1031 exchange period. These deadlines could not be extended under any circumstances unless the President of the United States declares a natural disaster that includes the property or parties involved in the 1031 exchange". (Exeter, 1031 Exchange Service LLC, 2008). Time limit is one important thing for decision and management tool.

Minister of Finance Establishment number 96, 2007 concerns the property taxable value (NJOP) as the consideration of value on exchange process. The value of replacement property should be above that of relinquish property base on the taxable value of property instead of market value. The taxable value is the base of property tax not always represented by the market value, most of them being below the market value. Taxable property value released Indonesian Tax office. The empirical study and observation show that the taxable value is always below the market value (Wibowo, 2007). Tri Wibowo said such condition because of first, land value zoning determination (Penetapan Zona Nilai Tanah- ZNT) was not based on the actual data but on estimation. Second, the non-updating of management information system of tax object (SISMIOP) that uses as the bulk for the valuation of property and third, rapidity of economic growth leads the market value of property to sky rocket. Using NJOP as value made bias during exchange transaction will need to be improved.

Non cash involved exchange brings forth the non similar value. As we know the inequalities characteristics of property suppose additional value to make it balance. Cash is one of the answers. The exchange process in Indonesia still did not implement using cash to reduce dissimilarities. As a compensation of imbalance condition makes additional improvement on the replacement land or real estate. Logically, perhaps it is acceptable but hard to find unless the additional improvement are measurable. Disclosing mismatch of value still need more transparency and accountability to mitigate social judgment. It is still not easy to make this more understandable.

CHAPTER IV: CONCLUSION AND RECOMMENDATION

The purpose of this paper is to answer any questions regarding the real estate impacts that breed problems both internally and externally. There are three problems associated with negative impact of real estate - social, undervaluation of relinquished or received real estate and procedural aspects of exchange. The data shows the three problems as the reason of exchange that emerges from zoning regulation. Potentially such problem will increase according to the development process in each region or city in Indonesia.

The methodology applied in this paper is a descriptive analysis based on the cases and analytical decision using both the theoretical background and practical aspects of real estate. The data was collected from the media either electronically or printed. After collection of the particular area of data, it needs more analysis to highlight the theoretical background. So far the study has not found real estate exchange; instead it has revealed the method of disposing asset in term of performance. The performance of DGSAM is influenced by how much trust government has of an organization to deal with asset management at all circumstances including exchange process. Setting up DGSAM as the background of this research has proposed to improve it as a public service and asset manager of government.

The real cases of real estate exchange problem state the main reasons for exchange is not governmental zoning both local and central government moreover initiated by private sector. While real estate exchange occurred following the private business proposal, it impacts on three main areas- social conflicts or geographical problem, value problems and mechanisms problems. In term of mechanism, the previous chapter described disadvantages of real estate exchange in

Indonesia regarding the time limit, value base of exchange and non cash transaction. This paper considered disadvantages of real estate exchange as part of mechanism problems.

IV.1. Thesis Statement and Problem Solutions

The problems that need to be answered regarding the questions of this paper are summarized as a valuation problem, an impact of real estate exchange and an unwilling owner, including unwilling stakeholders of properties. In a descriptive way the problems can be addressed as shown in the following paragraphs.

The question about the impacts of government exchange on social and organization (both ministry of finance and organization dealt with exchange) are dominated by negative impacts, such as social conflicts because of unsuitable replacement property. Unwilling citizens as stake holders of property are resistant to exchange because of a lack of economical consideration such as transportation, facilities, security and inconvenience factor for the new environment of replacement property. Internally, the central government c.q. ministry of finance has to pay attention and solve such problems. Furthermore, the institution dealing with exchange process faced internal problem to handle court or all circumstance allegation from the stakeholders and social responsibility to deliver excellence services.

The second question is regarding the disadvantages of real estate exchanges. Analytically due to the disadvantages of real estate exchange there is no stated time limitation for exchanging process that makes it unclear to measure effectiveness of process and handling of the problem. Moreover more time will mean an increase in the cost of handling. The third disadvantage is value base of exchange. Using taxable value of property as the base of exchange in term of comparison between relinquished and replacement asset is a weakness since the taxable value is

only for tax base to meet the assessment value for tax purposes. It is not only the non-updated value, but also historical sales transaction on valuation process which is not as good as current market value. If the value is assigned as the real transaction it will not be fair and not make sense. The last disadvantage in real estate exchange is non cash transaction as a compensation for non similarity of asset exchange. There are no two exact same properties due to characteristics of physical and geographic factor. The only one to fulfill dissimilarities could be in cash. The other option that can be done is to present land improvement such as building, road, fence or other things as long as its value is disclosed. The value is vulnerable as the main reason and more sensitive factors are in the exchange process.

IV.2. Supporting Evidence

The negative impacts of real estate exchange were shown by the data of real estate exchange cases in Indonesia during 1997 to 2007 before and after establishment of DGSAM. Furthermore, the best practice of exchange property shows the significance of valuation property as one important requirement instead of using taxable value of property. Time enforcement or involving cash transaction is one of the best ways to reduce the imbalance value of property. All disadvantages mean how real estate exchange has potential problems if such weaknesses were not reduced and it will need government interventions to be undertaken. Theoretically all disadvantages are supported by valuation theory and real estate market theory as well.

IV.3. Policy Recommendations

Given the analytical problems based on the data with the theoretical real estate market and valuation and best practice of real estate transactions both in private and governmental practices this paper recommends some policies on the exchange process as follows:

- a. Refers to case analysis and the previous study, the DGSAM as the government asset manager should play management throughout the process, not only at the disposal stage, but also has to plan accurately. The proper government planning has to take over as the ground of exchange process. It is not eligible when private sector is the exchange initiator, according to this study. In order to reduce the impacts of exchange process, government planning has to be one step ahead compare to market or private sector and reins the control power of government property.
- b. Do valuation during exchange process. Valuation can be conducted by government appraisers as independent party and so far DGSAM has about 1,100 appraisers. Valuation before exchange process is to conclude the definite value of government property that will be relinquished and replacement property. The difference in value will be met and it will decrease unwillingness of stakeholders including the owner. If the replacement property has not be found, the appraiser will deal with feasibility study to match both in value, environment factors, facilities and neighborhood analysis that can mitigate the social resistance. Cash involvement is the only way to make a balance in the value but in the real context it can be substituted by land improvements or building in the same value.

Appraiser can deal with such matter easily in term of what the value is and should be compensated for the exchange.

- c. Apply time limit and its enforcement into the regulation. It will be effective to hinder long waste process handling of the problems. After implementation of the stated time limit government can evaluate which part of the mechanisms need to be improved to find the most effective procedures.
- d. Stipulate not to use taxable value in the exchange process since it will form bias. Not only is taxable value (NJOP) not market value but also out of context because NJOP is only for taxation purpose.

IV.4. Further Research

This paper studies only in the area of government not in the free market. Even though theoretically there is no distinguishing between private and government, in practice government has special aspects that cannot disregard giving the policy. Studies of real estate exchange in the private or free market sector could be more complex and sophisticated and will need to be looked deeper into to analysis the problem. Further study for such matter is interesting and will enhance exchange as option of asset disposal.

Real estate exchange is only one of four major methods of disposing government property. The other methods such as selling, granting and government investment are other best ways that need to be observed. The study of methods other than exchange will seek the best and most effective methods by comprising all aspects including the impacts of each method.

The effectiveness of the exchange process is an important issue to be observed further, involving management asset tools starting from planning, organizing, actuating, and controlling

in the scope of organization government and private sector. It will involve many aspects of management and property both theoretical and practice.

IV.5. Conclusion

Collected data of real estate exchange cases mostly are started as a consequence of city agglomeration. The problem for the impacts of exchange is in area of value, geographical factors and procedures of exchange. This study analyses such impact in terms of valuation and market analysis both theoretical and practical. The observation of regulation concerning real estate exchange and best practice of real estate exchange has significant consideration that exchange process should not ignore the valuation role.

Regulation regarding the time limitation as the tool of management assets and clearness of using value term, without being disturbed by taxable value is one of three recommendations to mitigate bias and public opinion. Unwillingness of stakeholder including the property owner is an expression of non procedural sign that has to be solved by conducting the market value of relinquished property and replacement property.

Regarding public property, government needs to be more careful to find the replacement property to substitute the original one. Feasibility study is the best alternative to assure similarity of facilities, transportation, security and amenity that make citizens feel comfortable to accept the replacement property, and on the other hand it will reduce public resistance.

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