



**CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION
FOR CASE NUMBER 137/PUU-XXI/2023**

Concerning

Rejection of Development of Rempang Eco City Area

Petitioners	: Indra Afgha Anjani and Amrin Esarey
Type of Case	: Judicial Review of Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest (Law 2/2012) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	: Judicial Review of Law 2/2012 because it is contrary to Article 28A, Article 28D paragraph (1), Article 28G paragraph (1), Article 28H paragraph (4), Article 28I paragraph (3) and paragraph (4), Article 28J paragraph (2), and Article 33 paragraph (3) of the 1945 Constitution
Verdict	: To declare that the Petitioners' petition is inadmissible
Date of Decision	: Wednesday, November 29, 2023
Overview of Decision	:

The Petitioners are individual Indonesian citizens who live in Batam and the Bintan Islands.

Whereas regarding the authority of the Constitutional Court (the Court), since what is being petitioned for review is the law *in casu* Law 2/2012 against the 1945 Constitution, the Court has the authority to hear the *a quo* petition.

Whereas before considering the legal standing of the Petitioners and the subject matter of the petition, it is important for the Court to first consider several things, including, the Petitioners questioned Law 2/2012 which is closely related to ownership of land and other assets, however the Petitioners were unable to show any evidence to convince the Court that the Petitioners own a plot of land or assets in Rempang. Regarding the reasons for the petition (*posita*), upon careful examination of the Court, it was clear that in the *posita* section of the petition, the Petitioners wish for Law 2/2012 to be declared contrary to the 1945 Constitution, however in the *posita*, the Petitioners merely described the contradiction between the norms of Article 1 number 8, Article 2 letter g, Article 14 paragraph (1), Article 21 paragraph (1) of Law 2/2012 and the 1945 Constitution without describing other norms of Law 2/2012 which they believe to be contrary to the 1945 Constitution as they should be. In addition, the incident described at length was related to enforcement by the authorities during a demonstration by the residents of Rempang. Even though it is important to describe such

incident, this shows that the petition is not focused. Moreover, the Petitioners in their *posita* also described many contradiction between the norms of Law 2/2012 and Law Number 5 of 1960 concerning Basic Agrarian Principles (*Undang-Undang Dasar Pokok-Pokok Agraria* or UUPA). According to the Petitioners, Law 2/2012 are not in line with several provisions of the UUPA. In the *petitum* section, *in casu*, on the preliminary injunction, the Petitioners petition the Court to stop the Rempang Eco City National Strategic Project. As for the *petitum* section on the subject matter, the Petitioners petition the entire Law 2/2012 to be declared unconstitutional and petition the Rempang Eco City National Strategic Project to be stopped.

Whereas, if the *posita* and *petitum* are linked, the Court is of the opinion that there is a discrepancy between the reasons for the petition (*posita*) and the *petitum*. Regarding the reasons for the petition (*posita*) which are not in accordance with the *petitum* of the Petitioners, and the petition of the Petitioners to stop the Rempang Eco City National Strategic Project which is an unusual *petitum* to be petitioned in the *petitum* section of the subject matter. Moreover, the *a quo petitum* has been petitioned in the preliminary injunction *petitum*, thus making the Petitioners' petition unclear or obscure (*obscur*). The Petitioners stated that there are issues in several articles of Law 2/2012, including the articles regulating community participation, public consultation and deliberation, land acquisition planning for public interest, and loss of community rights in objection reporting mechanism. However, the Petitioners in their petition did not describe the entire contradiction between the norms of Law 2/2012 and the 1945 Constitution as petitioned in the *Petitum*. This *posita* was also not elaborated into an unconstitutionality issue of norms as the main character of any judicial review cases at the Constitutional Court. Even if there is an implicit description as an effort to build a normative juridical argument, such argument is still obscure and unconvincing as a constitutional argument. In addition, the *petitum* of the Petitioners requested the Court to declare that the entirety of Law 2/2012 is unconstitutional and does not have binding legal force, however the Petitioners were unable to describe the unconstitutionality issue of the entire norms of the articles in the *a quo* Law. Therefore, within the limits of reasonable reasoning, if the *petitum* of the Petitioners is granted it will actually create legal uncertainty. The legal uncertainty as referred to is the loss of juridical basis related to the land acquisition for public purposes. Pursuant to all the legal considerations above, the Court is of the opinion that, because the legal standing, the subject matter of the petition and the *petitum* are unclear, this makes the *a quo* petition unclear or obscure (*obscur*), and therefore the subject matter of the petition is not considered further.

Accordingly, the Court subsequently passed down a decision which verdict states that the Petitioners' petition is inadmissible.