

CHAPTER I

INTRODUCTION

A. Background

Investment is one of the processes to increase the economic of country. Nowadays, there are many countries trying hard to increase their investment. One of the ways to increase the investment is through foreign investment.¹ Therefore, foreign investors also have the opportunity to develop their business.

Related to the issue, the Article 33 of 1945 Constitution stated that “Investment should be a part of the implementation of national economy, to increase the national economy growth, to create the jobs, to promote the sustainable economic development of economic development, to enhance the capacity and national technology, to encourage the development of economy community, as well as to create the public welfare in the economic system, especially for competitiveness”.² Thus, regulation is a basic policy of the investment in Indonesia. Beside that, there is also Law Number 25 Year 2007 about Investment which has enacted on 27 April 2007. This regulation covers all investment activities in all sectors.

¹ Evalina Barbara Meliala, 2008, “Pemberian Hak atas Tanah dalam Rangka Penanaman Modal setelah Diundangnya Undang-Undang Nomor 25 Tahun 2007 tentang Penanaman Modal”, (*Tesis dalam Program Studi Kenotariatan pada Sekolah Pascasarjana Universitas Sumatera Utara*), p. 8.

²See The Translation of Law Number 25 Year 2007 about Investment, available on, <https://www.elaw.org/system/files/id.investment.act.pdf>, accessed on Sunday, November 27th, 2016, 8.34 pm.

Indonesia is a main destination for foreign investors to invest. Related to the issue, Saleh Husain³ said that “if we compare with the other ASEAN countries like Malaysia and Thailand, Indonesia is still an interesting country for foreign investors who want to invest”⁴. From all provinces in Indonesia, Yogyakarta is one of the main destinations for foreign investors. This is because, Yogyakarta is one of the provinces in Indonesia that has stable condition in regards with political matters and of course the tourism is a main source of local revenue.

Based on Indonesia Stock Exchange the value of capital market transactions in Yogyakarta from January to August 2016 reached IDR 2.5 trillion by the number of investors are 19.015 people.⁵ This news proves that in Yogyakarta has many investors, either domestic investors or foreign investors. Additionally, Yogyakarta is a strategic place to invest.

Basically, the land title is one of the main issues in investment. Land is a basic capital for investors who develop their business, therefore the issue of land for foreign and domestic investment is an obstacle, mainly due to lack of legal certainty in the matters of using the land title.⁶ Foreign investors who want to invest in the long term always face the problem of the status and also the legal certainty in the matters of using the land title.

³Minister of Industry of Republic of Indonesia period 2014-2019.

⁴See Article “Indonesia Masih Jadi Negara Tujuan Investasi”, available on, <http://kemenperin.go.id/artikel/10552/Indonesia-Masih-Jadi-Negara-Tujuan-Investasi>, accessed on Thursday, December 8th, 2016, 5.06 pm.

⁵See Article “Transaksi pasar modal di DIY capai Rp2,5 triliun”, available on, <http://jogja.antarane.ws.com/berita/342712/transaksi-pasar-modal-di-diy-capai-rp25-triliun>, accessed on Thursday, Desember 8th, 2016, 5.30 pm.

⁶Evalina Barbara Meliala, *Op.Cit.*, p. 10.

Moreover, as foreign investors are not allowed to acquire the land title, except for the Right of Exploitation. However, the government recognized that in order to support the economy of the country, a legal entity or persons can be given the land title. Therefore, the business entities should reside in Indonesia and should be established according to the applicable law in Indonesia.⁷

Actually, the land title has been regulated in the Law Number 25 Year 2007 about Investment. Additionally, the Law Number 5 Year 1960 about the Basic Regulation of Agrarian also discussed the granting of land title for individuals or foreign legal entities or foreign investor who want to extend their business in Indonesia. Law Number 25 Year 2007 about Investment and Law Number 5 Year 1960 about the Basic Regulation of Agrarian are equally discuss the land title. However, there is difference regarding the limitation of time on granting the land title for foreign investor in Indonesia in both of the regulations. Article 22 point (1) letter c of Law Number 25 Year 2007 about Investment stated that foreign investors can only invest in Indonesia for 95 years. However, Article 29 of Law Number 5 Year 1960 about the Basic Regulation on Agrarian Principles stated that the foreign entrepreneurs or foreign investors can only invest in Indonesia for 85 years.

From both of the regulations, there is difference related to the time of using the land to invest for foreign investor. It is considered by the

⁷*Ibid.*

researcher that it will bring up an issue, because there is an unclear regulation and foreign investors need a clear legal certainty related to the time of using the land title. From the explanation above, the researcher is interested in examining the topic of “Granting of the Land Title in Investment for Foreign Investor in Yogyakarta”.

B. Research Problem

1. How is the regulation of granting of the land title in investment for foreign investors?
2. How are the procedures of granting of the land title for foreign investors in Yogyakarta?

C. Objective of Research

1. To know the regulation of granting of the land title in investment for foreign investors.
2. To know the procedures of the granting of the land title for foreign investors in Yogyakarta.

D. Benefit of Research

Based on the research problems and objectives, the benefits of research are expected as follows:

1. Theoretically

Theoretically, this research can be used as study materials toward development related to the granting of the land title in investment.

2. Practically

Practically, this research can be a reference material in the practice of the agreements about the granting of the land title in investment to save the right of the investor. Besides, it is also expected to provide information and advice to practitioners, businesses, and society in field of investment.