

The Role of Land Deed Making Officials (PPAT) in Making Deeds of Land Use Rights by Foreign Citizens

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Abstract. *The aims of this study are to analyze: 1) The juridical implications of the ownership of land rights for foreign citizens in the concept of legal certainty. 2) The role of the Land Deed Making Officer (PPAT) in making deed of land use rights by foreign nationals. The approach method used in this research is an empirical juridical approach. The specification of the research used is descriptive analytical research. Types of data using primary data and secondary data with literature and interview collection methods. The data analysis method used in this research is qualitative analysis. Research results: 1) The juridical implications for the ownership of land rights for foreign citizens in the concept of legal certainty are guaranteed by laws and regulations. Legal foreigners have rights to land with the status of ownership rights, as well as guarantees of legal certainty regarding the permissibility of foreigners to own land with the status of usufructuary rights, as explained in Article 42 of the UUPA. The period of ownership of usufructuary rights is regulated in Article 52 of Government Regulation of the Republic of Indonesia Number 18 of 2021 that usufructuary rights over State Land and Land of Management rights with a period granted for a maximum period of 30 years are extended for a maximum period of 20 years, and renewed for maximum term of 30 years. 2) The role of the Land Deed Making Officer (PPAT) in making land use rights deeds by foreign nationals is to make agreements for granting usage rights over ownership rights. Before making the deed, the PPAT must ensure that the parties have fulfilled the requirements in the Laws and Regulations.*

Keywords: Citizen; Foreign; Rights.

1. Introduction

Land is a gift from God Almighty for every human being on earth because land has many benefits in it, land must be managed, utilized and maintained as well

as possible as a resource to achieve the goal of being a prosperous country.¹ Land and humans cannot be separated, humans live and develop and carry out their daily activities on the land. Humans most of their lives depend on land, because land is a source of livelihood and livelihood for humans.² Land plays a central role in Indonesian life and economy. The rise of development in various fields of life has caused land to become a commodity that has very high economic value and is difficult to control.³This has caused many people to be interested in investing by buying land, bearing in mind that the price continues to soar every year.

Article 2 paragraph (1) of Act No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) states that earth, water and space, including the natural wealth contained therein, are controlled by the state at the highest level. The purpose of the state controlling the land means that the land is not owned by the state, but that the state has internal power regulates the distribution of land rights that can be granted as well as the legal relationships that arise over a land.⁴ Land rights are a right to control land by the state that is given to a person, group of people, or to legal entities, both Indonesian citizens and foreign citizens.⁵ Basically all land rights can be transferred or transferred. Switching is the transfer of land rights because of the law, by itself, there is no intentional legal action to transfer that right to another party. The transfer of land rights is due to inheritance. Whereas transferred means that the transfer of land rights to another party is due to a deliberate legal action so that the land rights are transferred to another party, such as buying and selling, grants, exchanges, and so on. So the transfer of land rights is the transfer of land rights from one party to another, either due to intentional legal actions or not due to intentional legal actions.⁶

As regulated in Article 53 Act No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA), regulates temporary land rights, namely lien rights, profit-sharing business rights, boarding rights, rental rights over agricultural land. Meanwhile, primary rights are rights that can be owned or controlled directly by a person or legal entity that has a long time and can be transferred to another person or

¹Heru Kurniawan. Reconstruction and Re-actualization of Islamic Social Ecological Literacy. Research Journal Volume 13 Number 2 (2016). p. 201

²Dyara Radhite Oryza Fea. (2018). Land Management Guide. The House and Permits. Yogyakarta: Legality. p.1

³Adrian Sutedi. (2018). Transfer of Land Rights and Registration thereof. Jakarta: Sinar Graphics. p.22

⁴Hardianto Djanggih and Salle Salle. Legal Aspects of Land Acquisition for Implementation of Development in the Public Interest. Pandecta: Research Journal of Legal Studies. Volume 12 Number 2 (2017). p. 165

⁵Urip Santoso. (2010). Agrarian Law and Land Rights. Jakarta: Kencana. p.87

⁶Erna Sri Wibawanti. R. Murjiyanto. (2013). Land Rights and Their Transfer. Yogyakarta: Liberty p.119.

their heirs. In the UUPA there are primary land rights, namely land ownership rights, usufructuary rights, building use rights, and usufructuary rights.⁷

A usufructuary right is the right to use and or collect produce from land that is directly controlled by the state or land belonging to another person, which gives the authority and obligations specified in the decision to grant it by an official authorized to give or in an agreement with the owner of the land that is not a lease agreement or land processing agreement, everything as long as it does not conflict with the provisions of the law.

Based on the applicable laws and regulations, foreign nationals domiciled in Indonesia are only given usufructuary rights over land. Thus it is not justified for foreign citizens or foreign legal entities to own land and buildings with ownership rights. Article 9 of the Basic Agrarian Law states that only Indonesian citizens can have full relations with Indonesia's land, water and air space. In his explanation it was said that only Indonesian citizens could have ownership rights to land. Property rights to foreigners are prohibited as stated in Article 26 paragraph (2) of the Basic Agrarian Law, and violations of this Article contain sanctions null and void.⁸

Foreign nationals cannot own/control land and buildings with the status of ownership rights, but they can still own land and buildings with the status of building lease rights or usufructuary rights. This is also clarified in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 29 of 2016 concerning Procedures for Granting, Releasing, or Courting Rights on Residential or Residential House Ownership by Foreigners Domiciled in Indonesia, Foreign Citizens those who can own land or buildings with usufructuary rights must comply with statutory provisions. This is explained in Article 69 Paragraph (1) Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units,

The official authorized to draw up a deed of usufructuary agreement is the Land Deed Making Officer (PPAT). PPAT is one of the institutions mentioned in the Civil Code whose authority is closely related to making authentic deeds and other powers. Departing from the need for a perfect means of proof (*volledig bewijs*) in accordance with the *Burgelijke Wetboek (BW)* or the Civil Code (*KUHPerdata*) and the *Herzien Inlandsch Reglement (HIR)* or Indonesian Civil Procedure Code, in addition to material truth, PPAT also has a role and important duties and

⁷Supriadi. (2019). *Agrarian Law*. Jakarta: Sinar Graphics. p. 64

⁸Bedita Putri Sa'idah. Nadya Farras Indriati. The Role of the PPAT in Making the Deed of Use Rights Agreement Against Foreign Citizens. *Journal : Indonesian Notary*. Volume 3 Number 2 (2021). p.148

positions of honor.⁹ The PPAT is given the task and authority so that its presence is to serve the people who carry out legal actions by making a deed of transfer of their rights and a deed of encumbrance of their land rights.¹⁰

2. Research Methods

The approach method used in this research is an empirical juridical approach. The specification of the research used is descriptive analytical research. Types of data using primary data and secondary data with literature and interview collection methods. The data analysis method used in this research is qualitative analysis.

3. Results and Discussion

3.1. Juridical Implications of Land Rights Ownership for Foreign Citizens in the Concept of Legal Certainty

Ownership of land owned by the community has a relationship with one's welfare, the development of life and the environment of the group. Land can indicate a person's social status. Every citizen has the right to be able to use and control a portion of land for his personal and family needs, which is called individual rights. Each type of land right gives authority to the holder of the right to use/use the land.¹¹

People who live in the territory of the Indonesian state are not only Indonesian citizens (WNI), but there are also many foreign citizens (WNA) who need land. In the current or recent conditions, the number of foreign nationals in Indonesia is increasing, not decreasing, but in fact increasing in number. There are several reasons why the large number of foreigners in Indonesian territory are a factor or impact of global flows and modernization and other reasons, namely, to increase the level of Indonesia's relations with other countries, it is felt necessary to provide easy access for foreigners.¹²

⁹Tatik Arjiati. The Role of Notary/Ppat in Drawing up the Deed of Distribution of Joint Rights (APHB) Against the Distribution of Inheritance of Different Religions on Land and Buildings. Deed Journal. Volume 4 Number 1 (2017). Unissula. Semarang. p.75

¹⁰Denny Suwondo. Ihsan Saputra. Roles and Responsibilities of Land Deed Officials in the Implementation of Land Registration Activities. Unissula Law Journal. Volume 35 Number 2 (2019). p.187

¹¹Bedita Putri Sa'idah. Nadya Farras Indriati. The Role of the PPAT in Making the Deed of Use Rights Agreement Against Foreign Citizens. Indonesian Notary. Volume 3 Number 2 (2021). p.154

¹²Ega Permatadani and Anang Dony Irawan. Land Ownership for Foreign Citizens in View of Indonesian Land Law. Equator Law Review. Volume 2 Number 2. October 2021. p. 350

The convenience provided can be in the form of granting exemption from the obligation to have a visit visa by taking into account the principles of expediency and reciprocity.¹³ This activity has also been implemented by other countries against the Indonesian state. This thinking is from the real thing to provide an added advantage. Generally to improve the country's economy and increase interest in the number of foreign tourist visits to Indonesia.¹⁴ The convenience of visiting visas is the easiest way to increase the number of foreign tourist arrivals entering the country, so that they can pump foreign exchange earned from the tourism sector.¹⁵

The definition of a foreigner is based on Article 1 paragraph (9) of Act No. 6 of 2011 Concerning Immigration, namely a person who is not an Indonesian citizen.¹⁶ According to Article 41 Paragraph (1) UUPA, usufructuary rights are rights to use and collect land directly controlled by the State or other people's rights that give authority and obligations specified in the decision to grant it by an authorized official, give it or in an agreement with the owner the land that is not a lease agreement or land management agreement, everything as long as it does not conflict with the UUPA.¹⁷

The usufructuary right, of course, has a limited period of time, so it is different from the holder of a property right, whose rights are not limited unless there is a transfer of rights. However, the holder of the Usage Right can still receive benefits in the form of compensation if in the future the usage rights period expires, as long as the building or objects on it are still needed.¹⁸ If within the specified time period the foreigner dies, then it can be inherited by an Indonesian citizen or foreigner, namely with inheritance status as stipulated in the Minister of Agrarian Regulation Number 29 of 2016 concerning Procedures for Granting, Releasing, or Transferring Rights to Ownership of a Residential House or Occupancy By Foreigners Domiciled in Indonesia.

The prohibition on ownership of private land by foreigners is reflected in the provisions of Article 21 paragraph (1) and (3), Article 26, and Article 27 letter a

¹³Ni Made Adinda Wikan Dewi and Made Subawa. "Application of the Principle of Benefit and the Principle of Reciprocity in RI Presidential Regulation No. 21 of 2016 concerning Visit Visa Free." *Kertha Negara: Journal of Legal Studies*. Volume 6. Number 4 (2018). p. 1.

¹⁴Shakir Shakir. "The Influence of Presidential Regulation Number 21 of 2016 Concerning Visa Free on Security and Welfare in an Immigration Perspective." *Journal Syntax Admiratio*. Volume 1. Number 3 (2020). p.. 278.

¹⁵Yuni Sudarwati. Optimization of the Short Visit Visa Free Policy. *Journal: Brief Info*. Volume 7 Number 6 (2015). p. 351

¹⁶Isharyanto. (2016). *The Dynamics of Regulating the Legal Status of Citizenship in the Perspective of Legislation*. Yogyakarta: Absolute Media. p.353

¹⁷Urip Santoso. (2008). *Agrarian Law and Land Rights*. Cet. 4. Jakarta: Kencana. p.115

¹⁸Dian Aries Mujiburohman. *Probelamtika Arrangement of Former State Land Rights which Have Expired*. *Bhumi: Journal of Agrarian Affairs and Land Affairs*. Volume 2. Number 2 (2016). p. 164.

number 4 UUPA. All of these provisions, especially Article 26 paragraph (2), must still be supported by a set of implementing regulations and regulations as well as the institutions needed to achieve the goal. This regulation can also be interpreted as an effort to enforce the provisions of Articles 42 and 45 of the UUPA, namely efforts to limit access to land by foreigners. Foreigners domiciled in Indonesia are only allowed to own land with usufructuary rights and building lease rights. There are two important matters related to land rights for foreigners in Indonesia, when viewed from the objective of forming an Indonesian State Government, which are contained in the 4th paragraph of the Preamble of the 1945 UUDNRI, namely protecting the entire Indonesian nation, and protecting the entire homeland of Indonesia. In line with the objectives of its formation, the Indonesian State Government has duties and responsibilities that must be carried out to protect the entire Indonesian nation and all of Indonesia's bloodshed. It is not permissible for an inch of private land in Indonesia to be owned by a foreigner. Based on these two things, UUPA makes it happen in Article 9 paragraph (1), Article 21, Article 26, and Article 27 letter a number 4, and has provided land needs for foreigners with usufructuary rights and rental rights for buildings as stated in Article 42 and Article 44 of the BAL. The Indonesian State Government has duties and responsibilities that must be carried out to protect the entire Indonesian nation and all of Indonesia's bloodshed. It is not permissible for an inch of private land in Indonesia to be owned by a foreigner. Based on these two things, UUPA makes it happen in Article 9 paragraph (1), Article 21, Article 26, and Article 27 letter a number 4, and has provided land needs for foreigners with usufructuary rights and rental rights for buildings as stated in Article 42 and Article 44 of the BAL. The Indonesian State Government has duties and responsibilities that must be carried out to protect the entire Indonesian nation and all of Indonesia's bloodshed. It is not permissible for an inch of private land in Indonesia to be owned by a foreigner. Based on these two things, UUPA makes it happen in Article 9 paragraph (1), Article 21, Article 26, and Article 27 letter a number 4, and has provided land needs for foreigners with usufructuary rights and rental rights for buildings as stated in Article 42 and Article 44 of the BAL.¹⁹

Legal certainty is one of the goals of law, as stated by Gustav Radbruch, the law aims for justice, usability and certainty.²⁰ With the existence of a legal certainty, the purpose of the law, namely justice, can be achieved. The main value of legal certainty is the existence of the regulation itself. In general, it means that the

¹⁹FX Sumarja. (2015). Land Rights for Foreigners (Legal Political Review and Protection of Indonesian Citizens). Sleman: STPN Press. p. 7

²⁰H. Chaerudin. (1999). Philosophy An Overview. Cianjur: FH ELEMENTS, p. 19.

theory is the outline of a design on the basis of opinions expressed as a description of an event.²¹

Based on Gustav Radbruch's theory of legal certainty, the guarantee of legal certainty for land ownership with the status of usufructuary rights for foreign nationals (WNA) is as follows:

1. Positive law is the law.

Based on the provisions of Article 9 paragraph (1) and Article 21 paragraph (1) of the Basic Agrarian Law (UUPA) it is clearly and unequivocally stated that foreign nationals cannot control land throughout Indonesia by using property rights. However, laws and regulations provide guarantees of legal certainty regarding the permissibility of foreign nationals to own land with usufructuary rights, as explained in Article 42 of Act No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) that those who can have usufructuary rights are citizens. Indonesians, foreigners domiciled in Indonesia, legal entities established under Indonesian law and domiciled in Indonesia and foreign legal entities having representatives in Indonesia.

2. Law is based on facts or established legal basis.

Foreigners cannot have land ownership rights but can still own land with usufructuary status. Based on Article 20 paragraph 1 of Act No. 5 of 1960 concerning Basic Agrarian Regulations, it is explained that property rights are hereditary, strongest and fullest rights that people can have over land. This is an effort so that land in Indonesia, which is controlled by the state or owned by individuals in the community, is not sold out by foreigners who want to live or open businesses in Indonesia. If the prohibition on property rights is not imposed on foreigners, then in the long run most of Indonesian land will be controlled by foreigners either to open businesses such as hotels, restaurants or so on or to make residences.

3. Real facts must be formulated clearly, so as to avoid misunderstanding and easy to implement.

Foreigners cannot own property rights but can have use rights, because if property rights are granted, the phenomenon that will be seen is that Indonesian citizens (WNI) become workers in businesses owned by foreigners, while land ownership rights are already controlled by foreigners. foreign. If that happens, the welfare of the people will decrease, and it is not impossible that within a certain period of time

²¹Satjipto Rahardjo. (2000). Legal studies. Image Aditya Bakti. Bandung. p.9.

foreigners will control parts of the territory of the Indonesian state. Therefore, state-owned land and Indonesian citizens are not allowed to acquire ownership rights to foreigners. Apart from not eliminating ownership of the land, those who have ownership rights to the land also receive contributions from land used by foreigners.²²

4. Positive law should not be easily changed.

The principle of nationality in the Basic Agrarian Law does not completely prohibit foreigners from owning land rights, as in Article 9 paragraph (1) of the Basic Agrarian Law and in the application of the articles governing land ownership rights. The provisions of Article 21 paragraph (1), in essence, only Indonesian citizens have property rights. This provision is emphasized in Article 21 paragraph (3), which basically regulates the relinquishment of rights for foreigners who, due to certain conditions, obtain property rights after the Basic Agrarian Law comes into effect. Foreigners or foreign legal entities can only have usage rights.²³

Foreign nationals can have land rights in Indonesia, but in terms of ownership, they can only be owned temporarily. Land rights that can be owned and used by foreign nationals are land rights with usufructuary rights.²⁴ Article 52 Government Regulation of the Republic of Indonesia Number 18 of 2021 Concerning Management Rights, Land Rights, Flats Units, and Land Registration states that:

1. Usufructuary rights over State Land and Land Management rights with a term granted for a maximum period of 30 (thirty) years, extended for a maximum period of 20 (twenty) years, and renewed for a maximum period of 30 (thirty) year.
2. The usufructuary right as long as it is used is given for an unspecified time as long as it is used and utilized.
3. A usufructuary right with a term of ownership over land with a private right is granted for a maximum period of 30 (thirty) years and can be renewed by means of a deed of granting usufructuary rights over land with a usufructuary right.

²²Ida Bagus Wyasa Putra. (2003). *Tourism Business Law*. Bandung: Refika Aditama. p.85

²³Martin Roestamy. (2011). *The concepts of Property Ownership Law for foreigners are related to Land Law*. London: Alumni. p.99.

²⁴Bedita Putri Sa'idah. Nadya Farras Indriati. *Op. Cit.* p. 155

Based on Article 52, foreign nationals can get usage rights for 30 years. If the time period has expired, it can be extended for another 20 years. Then, after a span of 50 years, it is possible for the foreign citizen to renew his usage rights for a period of 30 years. If the total period given to foreign nationals can reach 80 years.

3.2. The Role of Land Deed Making Officials (PPAT) in Making Deeds of Land Use Rights by Foreign Citizens

According to the law, the mechanism for acquiring land rights for foreign nationals is carried out by means of buying and selling, leasing or by agreement on the reduction of rights from ownership to usufructuary rights. Foreign nationals can own land with usufructuary rights in accordance with the mechanism determined by law, namely through the process of relinquishing rights or decreasing rights based on agreements for granting usufructuary rights over property rights made at the Land Deed Making Officer (PPAT) and followed by the application process. usage rights to the State.

The process of relinquishing rights or decreasing rights made before the PPAT is a form of confirmation for legal certainty. PPAT has a role in providing guarantees of legal certainty and legal protection to citizens, both Indonesian citizens and foreigners in defending their rights. The rights referred to are perfect rights, namely rights that are clear, permanent and certain in scope, which are marked by perfect fulfillment of obligations.²⁵In accordance with Government Regulation Number 37 of 1998 as amended by Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Regulations for Officials Making Land Deeds (PPAT), in the provisions of Article 2 it is explained that the PPAT has the main task of carrying out some of the land registration activities by making deed as proof that the deed has been committed. specific laws regarding land rights. Land that used to have no economic value when an inch of land was confiscated for certain purposes, was never an issue. But what about the current situation, where an inch of land has high economic value so that even a little bit of encroachment will definitely cause a dispute.²⁶

The deed made by the PPAT is proof that legal actions regarding land rights have been carried out. PPAT deed is also a completeness in the Land Office and is an important deed in land registration. PPATs in carrying out their duties are

²⁵Komar Andasasmita. (2001). At a Glance Notary. London: Alumni. p. 2.

²⁶I Gusti Ayu Mas Maha Dewi. Prince Sutra. Implementation of Pp No 24 of 2016 Concerning PPAT Position Regulations by Notaries as PPAT. Law Journal. Faculty of Law, Udayana University. Denpasar. p. 3

prohibited from having multiple positions or professions. Each PPAT has the authority to make deeds regarding land rights within its territory.

Based on Philipus M. Hadjon's theory of authority, PPAT has attribution authority, namely authority based on applicable laws based on Article 2 of Government Regulation (PP) No. 24 of 2016 Amendments to Government Regulation Number 37 of 1998 concerning Regulations for the Position of Officials Making Land Deeds, namely:

1. The PPAT has the main task of carrying out some of the land registration activities by making deeds as evidence that certain legal actions have been taken regarding land rights or ownership rights to flats, which will be used as the basis for registering changes to land registration data resulting from said legal action.
2. The legal actions referred to in paragraph (1) are as follows buying and selling, exchanging, grants, entry into the company (inbreng), distribution of joint rights, granting Building Use Rights/Utilization Rights over land with Ownership Rights, granting Mortgage Rights, granting power of attorney impose Mortgage

PPAT plays a very important role in the relationship between legislation and the practical world of law, social and economics. PPAT is a public official (openbaar ambtenaar) who is responsible for making a written statement intended as evidence of legal actions. In terms of the authority of the PPAT to make a deed of granting usufructuary rights, it is the attribution authority contained in Article 2 of Government Regulation Number 24 of 2016 Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds.

Foreign nationals applying for usufructuary rights must attach immigration documents, as stipulated in Article 51 paragraph (2) Permennag/Ka.BPN No. 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights. The article stipulates that foreigners who apply for usufructuary rights must attach a photocopy of a permanent residence permit or a photocopy of a visit permit or other immigration permit owned by the foreigner concerned. Based on the provisions of Article 51 paragraph (2) above, the conditions for applying for use rights by individual foreigners are strictly regulated, namely the existence of a permanent residence permit, or a temporary stay/visit permit, but based on the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1 of 2010 regarding Service Standards and Land Regulations, in submitting the application for usufructuary rights, foreigners are required to attach a permanent residence permit. Ka.BPN Regulation No.1 of 2010 does not mention the requirements for

temporary stay permits, visit permits or other immigration permits as stipulated in Article 51 paragraph (2) Permennag/Ka.BPN No. 9 of 1999. In other words, the two regulations are inconsistent in setting the conditions for foreigners to obtain use rights.

Holders of land rights are expected not to sell their own land to foreigners, even at a high price (act selectively). For the general public, do not be tempted to persuade foreigners to borrow their names or even offer their services to get freehold land. It is hoped that notaries/PPATs in making land tenure agreements for foreigners and legal entities can provide an understanding/dissemination of ownership of land rights which are permitted by law. Notaries/PPATs are expected not to facilitate foreigners to obtain private land. Regional/central government officials in fulfilling someone's wish for the transfer of rights over land must act carefully so that land ownership does not fall into the hands of foreigners.²⁷

The legality of the legal action taken is determined by the fulfillment of the material requirements concerned, namely the skills and authority of the parties to carry out the legal action.²⁸

After the PPAT draws up a deed of waiver or reduction of rights based on an agreement on the granting of usage rights over ownership rights, the process for submitting a usufructuary certificate by foreigners at the Office of the National Land Agency is as follows:

1. Requirements for documents that foreigners must prepare:
 - a. The application form that has been filled out and signed by the applicant or his attorney on a stamp duty is sufficient.
 - b. Photocopy of the applicant's identity and power of attorney, if authorized, Permanent Stay Permit / Settlement Permit Card (KIM) issued by the Immigration Office, which has been matched with the original by the counter staff.
 - c. Power of Attorney if authorized.
 - d. Proof of acquisition of land/base of rights.

²⁷SF. Marbun. (2001). Exploring and Discovering General Principles of Good Governance in Indonesia. in the Dimensions of State Administrative Law Thought. UII Press. Yogyakarta. p. 214.

²⁸Eko Puji Hartono. Ahmad Khishni. The Role of the PPAT in Making Deeds of Transfer of Rights to Land and/or Buildings of Former Customary Ownership Rights in Relation to Payment of Fees for Acquisition of Land and/or Building Rights. Deed Journal. Vol 5 No 1 March 2018. Unissula Semarang. p. 163

e. Photocopy of SPPT PBB for the current year which has been verified with the original by the counter staff, submission of proof of SSB (BPHTB) and proof of payment of income money (at the time of registration of rights).

f. Attach proof of SSP/PPh in accordance with the provisions.

2. After submitting the documents, BPN will immediately process them. From the start, it is adjusted to the data owned by the agency, if it is suitable, it will immediately proceed to the next stage, namely the counter for receiving measurement payments. At this stage the applicant will pay an amount of money based on the applicable rules.

3. The measurement is carried out by BPN staff, then the applicant must accompany the staff when measuring the land for which a usufructuary certificate is to be made. After completing that stage, it is followed by the stage of making a work letter (SK) for making a certificate. At this stage, the applicant will be charged a fee of around IDR 350 thousand for the SK making committee. Cheap or expensive, depending on the type of land, land area, and land domicile. Then it will enter the bookkeeping stage, namely a new certificate is issued then the old one is crossed out.

4. Then the applicant can pick up the original land certificate at the certificate submission counter. The total time from the initial stages to the completion of the certificate is estimated to take a maximum of 97 days from when the data is submitted. The following is the time classification based on land area:

a. 38 days for an area of no more than 2,000 m².

b. 57 days for an area of more than 2,000 m² up to 150,000 m².

c. 97 days for an area of more than 150,000 m².

It should be noted, foreigners do not need to worry about difficulties in obtaining a certificate of use rights. Because the treatment of BPN officers is the same as when Indonesian citizens took care of certificates. Don't forget when taking the certificate to ensure that the applicant is concerned and brings the original proof of payment. However, if the foreigner as the holder of the right to use no longer fulfills the requirements as a subject of rights domiciled in Indonesia, then the legal consequence is that the foreigner is obliged to relinquish or transfer his rights to another party who fulfills the requirements within 1 (one) year. If within a period of one year, the rights are not relinquished or transferred, these rights are nullified by law provided that the rights of other

parties related to the land are still considered. Usufructuary rights are by no means a new land rights institution, however, it is less well known when compared to ownership rights, usufructuary rights, or building usufructuary rights. For this reason, a correct understanding of usufructuary rights is required in order to be able to use them responsibly. Disputes that occur are caused by a lack of understanding about the use, management and processes in managing land use rights based on property rights.²⁹

4. Conclusion

The juridical implications for the ownership of land rights for foreign citizens in the concept of legal certainty are guaranteed by laws and regulations. Legal foreigners have rights to land with ownership rights, as well as guarantees of legal certainty regarding the permissibility of foreigners to own land with usufructuary status, as explained in Article 42 of Act No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) that those who can having the right to use are Indonesian citizens, foreigners domiciled in Indonesia, legal entities established under Indonesian law and domiciled in Indonesia and foreign legal entities having representatives in Indonesia. The period of ownership of usufructuary rights is regulated in Article 52 of the Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration that Utilization Rights on State Land and Land Management Rights with a period of time granted for a maximum period of 30 (thirty) years are extended for a maximum period of 20 (twenty) years, and renewed for a maximum period of 30 (thirty) years. The holder of the Usage Right can still receive benefits in the form of compensation if in the future the usage rights period expires, as long as the building or objects on it are still needed. If within the specified time period the foreigner dies, then it can be inherited by an Indonesian citizen or foreigner, namely with inheritance status as stipulated in the Minister of Agrarian Regulation Number 29 of 2016 concerning Procedures for Granting, Release,

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²⁹Syriac Sappe. Right to Use Land with Property Rights and Dispute Resolution. Batulis: Civil Law Review. Volume 2 Number 1. May 2021. p. 81

- [2] Denny Suwondo. Ikhsan Saputra. Peran dan Tanggung Jawab Pejabat Pembuat Akta Tanah dalam Pelaksanaan Kegiatan Pendaftaran Tanah. *Jurnal Hukum Unissula*. Volume 35 No. 2 (2019).
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