

THE ISSUE OF SINGLE APARTMENT FOR FOREIGNERS IN INDONESIA

I. Made Pria Dharsana
Warmadewa University, Denpasar, Indonesia
dharsanaimade@yahoo.co.id

Desak Putu Kania Pratiwi
Warmadewa University, Denpasar, Indonesia
desakkania11@gmail.com

Rizky Mustika Rini
Warmadewa University, Denpasar, Indonesia
rizky.mustika@ui.ac.id

Abstract

The purpose of this study is to analyze the land rights over apartment units related to the right to ownership of apartments that can now be owned by foreign nationals. Ownership of land rights over flats does not fully adhere to the horizontal principle as stated in the UUPA. Because these rights can be owned by all ownership rights over flats. Flats can be given to anyone who qualifies as a land rights holder. The research shows that there are now many foreign nationals and foreign legal entities who own flats (apartments) in Indonesia. Both for business, investment and residential purposes. However, all actions of ownership of Sarusun, foreign citizens must still refer to the rules of law for foreign countries, as well as foreign legal entities. The ownership rules must still pay attention to the provisions of Act No. 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), Act No. 2 of 2011 concerning Flats, Act No. 11 of 2011 concerning Job Creation Rights, Government Regulation Number 18 of 2021 concerning Management Rights, Land Ownership Rights, Building Rights, Flat Units, and Land Registration as well as several other rules that are currently in effect.

Keywords: Apartment; Foreign; Ownership.

A. INTRODUCTION

The news that foreigners or foreigners can own apartments is really surprising and is still being debated among legal experts. So, all the debate over the birth of the Job Creation Law is increasing. This is a new space for land law debate. From here it is revealed that "Property Right to Flat Units" besides Indonesian citizens, foreigners are also allowed to own flats, is that right? According to the Minister of Agrarian Affairs and Spatial Planning - BPN RI, Sofyan Djalil¹, as we were quoted from CNN (7/10/20), explained the arguments for allowing foreigners to have an apartment unit in the Job Creation Law, on the grounds of granting unit ownership rights to a house flats to foreigners do not violate the provisions of the land law in the Basic

Agrarian Law between different apartments and landed houses. In addition, in the joint ownership of apartment blocks, the land is jointly owned by each unit owner so that the area of land will not be substantial or consistent compared to landed houses.¹

Regarding the common ownership of flats, the implementation is required to separate the flats on the land by separating the flats over the unit and the common part in the form of drawings and the common part of the house over the unit of the flats with the intention of proof of ownership of the object.²

The exception is that with this exception, property rights over a flat that are granted to foreigners do not include joint ownership rights. Act No. 11/2020 about copyright krja gives foreigners the status of ownership rights to the flats they own. According to the Minister of ATR-KBPN Sofyan Djalil, the status of property rights has been granted, the previous provisions for orange sings to work in Indonesia. But here we must make it clear that the previous provisions also do not prohibit foreigners from choosing a place to live in Indonesia. It's just that the land rights are limited, while the usufructuary rights are valid for a period of 30 years, can be extended for 20 years and extended again for 30 years according to the provisions of Law No. 5/1960 jo. PP N0. 103/2015.

It's just that, according to the author, it is not clear that legal experts have the opinion that the provision in Indonesian national land law is known as "Prohibition of Transfer of Land Transfers" (gronds verponding verbod), which prohibits land ownership other than usufructuary rights to be controlled by foreigners. And the consequence of this hope is not being able to own land with Indonesian property rights, which is regulated by Articles 42 and 45 of Law No.5/1960 concerning Basic Agrarian Principles; Article 39 PP No.40/1996 concerning HGU, HGB, and Land Use Rights; PP No.41/1996 concerning Ownership of Residential or Residential Houses by Foreigners domiciled in Indonesia.

Furthermore, pursuant to the promulgation of PP N0.103/2015 (State Gazette N0.325/2015), which regulates "Or Ownership of Residential Homes by Foreigners (WNA) domiciled in Indonesia)" on December 28, 2015, the provisions in PP No.41/1996 are declared repealed and no longer valid. Unlike the case with Indonesian citizens who have property rights and after the enactment of this law, those who lose their citizenship will be forced to relinquish their rights within one year of the said rights or loss of citizenship or are terminated, then their rights are revoked because the law and the land are in the hands of the state, as long as the rights of other parties that burden it must continue.

1 Hesti Rika, Alasan WNA Boleh Punya Apartemen dalam *Omnibus Law* Ciptaker, CNN, cited at <https://www.cnnindonesia.com/ekonomi/20201007195948-532-555659/alasan-wna-boleh-punya-apartemen-dalam-omnibus-law-ciptaker> On 02 May 2022

2 Felix Sofian, Aspek Hukum Kepemilikan Satuan Rumah Susun oleh Warga Negara Asing dengan Hak Guna Bangunan Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja, *Jurnal Hukum dan Kemasyarakatan*, Vol.3, No.4, Desember 2022, page. 874-903

The author also considers that it is undeniable that the birth of the clustering of land clusters related to *Sarusun* actually did not refer to the provisions of the previous law, namely Act No. 20 of 2011 concerning Flats, and Act No. 5 of 1960 concerning Basic Agrarian Regulations which are based on a hierarchy. the correct law should be that the Job Creation Law must be made to revise, delete, or change existing laws. However, the Government is of the opinion that the rules for ownership of apartment flats are different from the rules for ownership of landed houses. Therefore, readers must understand that the Job Creation Law allows foreigners to only have spatial rights, not to own land. Just for information that needs attention, Act No. 5 Year 1960 concerning UUPA Article 21 paragraph (1) stipulates that only Indonesians can hold property rights. Then paragraph (2) states, foreigners who after the enactment of this Law obtain property rights because inheritance without a will or mix of assets due to marriage. In addition, land rights for foreigners are emphasized in Article 42 of the UUPA jo. Article 49 PP NO. 18/2021 namely usufructuary rights. Article 45 UUPA namely rental rights and Article 67 Government Regulation Number 18 of 2021 namely Ownership Rights of Flats Units.

The three provisions mentioned above can grant rights to foreigners domiciled in Indonesia, to Indonesian legal entities, or to legal entities that have representatives in Indonesia. In addition, Article 55 paragraph (2) of the UUPA also stipulates that HGU and HGB are only open for the possibility of being given to legal entities that own part or all of the capital if this is required by law governing planned overall national development.

Researchers will compare with previous research, first, Sudiro entitled "Measuring the Openness of Land Investment Policy Related to Housing or Residential Ownership by Foreigners in Indonesia".³ This research is about Problems contained in the Government Regulation No. 103 of 2015 on housing or residential ownership by foreigners occupied in Indonesia is closely related to the openness policy (general openness policy) in the government regulation. "A more open definition of foreign investment interests, longer extension terms and renewal of the rights of use for foreigners, the provision that a foreigner may own an apartment with right of ownership, and may be inherited from such foreign ownership as long as he still has a residential permit in Indonesia shows the existence of openness policy in Government Regulation No. 103 of 2015."⁴ Further problems related to the clarity regarding the type of residence permit that can be applied to foreigners who are willing to have shelter in Indonesia is also questioned because in the Government Regulation No. 103 of 2015 is not clarified about the type of residential permit allowed to acquire residence in Indonesia which would undoubtedly an elaborate multi-interpretation in its application in the field.

3 Amad Sudiro, Measuring the Openness of Land Investment Policy Related to Housing or Residential Ownership by Foreigners in Indonesia, *European Research Studies Journal*, Vol. 21, No. 2 2018, page 165-177.

4 *Ibid.*

Second, Sujana entitled "Legal Satisfaction Suspended by Land Deed Official That Does Not Meet The Minimum Price Standard For Purchasing Apartment For Foreigner in Indonesia."⁵ This research discusses, firstly legal certainty of the Land Deed Official deed that does not meet the minimum price standard for purchasing flats for foreigners according to the provisions of Article 11 Government Regulation of the Republic of Indonesia Number 103 Year 2015 concerning Ownership of Residential Houses or Occupancy by People Foreigners domiciled in Indonesia still have a legal vacuum and secondly the legal consequences of the Land Deed Official deed that do not meet the minimum price standard for purchasing flats for foreigners are null and void. "Because they contradict the objective conditions for the validity of the agreement stipulated in the provisions of Article 1320 of the Civil Code on certain matters for which the benchmark is clear, required and justified by law."⁶

Lastly, Yubaidi, whose title is "The Future of Land Ownership Regulation in Indonesia".⁷ This research discusses, The Central Government is a representation of the people's mandate through UUPA. "That the central government as the highest power organization must be able to provide clear guidelines on the future of land ownership arrangements in Indonesia."⁸ As land law in Indonesia originates from customary law, the government must be careful in its implementation even though it does not close to be adapted to social, political, cultural, economic and technological developments and the demands of changing times today.

The purpose of this research is to find out and examine the ownership of land rights over flats owned by foreign citizens that are not completely horizontal fulfills the horizontal principle as stipulated in the UUPA. Because property rights are owned by all holders of ownership rights to the apartment unit. Owners of apartment flats can be given to anyone who fulfills the requirements as a holder of land rights.

B. RESEARCH METHODS

The type of legal research that is carried out in a normative juridical manner is normative juridical where law is conceptualized as what is written in laws and regulations or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate.⁹ This normative legal research is based to primary and secondary legal materials,

5 I Nyoman Sujana, I Nengah Renaya and I Wayan Mustika Adi Prapta, Legal Satisfaction Suspended by Land Deed Official That Does Not Meet The Minimum Price Standard For Purchasing Apartment For Foreigner in Indonesia, *Jurnal Notarii*, Vol. 4, No. 2, 2019, page.73-79.

6 *Ibid.*

7 Ricco Survival Yubaidi, The Future of Land Ownership Regulation in Indonesia, *International Journal of Multicultural and Multireligious Understanding*, Vol.6, No. 6, 2019, page.712-720.

8 *Ibid.*

9 Amiruddin & Zainal Asikin., *Pengantar Metode Penelitian Hukum*, Jakarta, Raja Grafindo Persada, 2012, page.118

namely research that refers to the norms contained in laws and regulations.¹⁰

C. RESULTS AND DISCUSSION

1. The Issue of Single Apartment for Foreigners in Indonesia

Talking about land rights for foreigners in Indonesia, first we need to understand what land rights are. Land rights are an authority to control land by the state that is given to one person, a group of people, or to legal entities, both Indonesians and foreigners.¹¹ UUPA which stipulates that: "HM, HGU, HGB, HP, rental rights, rights to open land, rights to collect forest products and other rights that are not included in the limits to be stipulated by law as well as temporary rights as mentioned in Article 53. Holders of land rights have the power to use the land or make use of the land that is claimed. This responsibility is derived from the UUPA, where the right to control itself is partially delegated to the right holder."¹²

In connection with the definition of an apartment unit mentioned in Article 1 point 2 of Law NO. 20 Year 2011, 7 namely flats whose main purpose is to be used separately with the main function as a residence and having a means of connecting to public roads.

Meanwhile, all this time, the rights are sourced from the flat unit called HM over the flat. HM over a flat is a property right over individual and separate units, including joint rights over shared shares, shared objects and common land. The ownership rights to apartment flats have joint rights, which include having joint shares, joint objects and joint land. What is meant by the definition of shared shares is referred to in Article 1 number 5 of Act No. 20/2011, namely that parts of the flats that are held are owned separately for use together in a functional unit with apartment units.

According to Professor of Land Law, Faculty of Law, Airlangga University, Surabaya, Prof. Dr. Erman Ramelan, SH, MS,¹³ at the seminar with the theme "Problems of Law of Property Rights over Flat Units in the Assignment and Transfer of Land Rights", which was organized by the Andy Institute in collaboration with Law Practitioners and Perbanas, Surabaya on October 20, 2012 said, if you look at the nationality principle in the land law regulated in the UUPA, foreigners are not allowed to have certain land rights as regulated in article 9 paragraph (1) UUPA¹⁴. The principle of nationality emphasizes that it is not possible for foreigners (WNA) to own land in Indonesia, and it is also not possible for

10 Soeryono Soekarto, *Pengantar Penelitian Hukum*, Jakarta, UI Press, 1984, page.20

11 Urip Santoso, *Hukum Agraria dan Hak-Hak Atas Tanah*, Jakarta, Kencana, 2010, page.87.

12 I Kadek Suwarna I ketut Kasta Arya Wijaya dan Luh Putus Suryani, Kewenangan Pemerintah dalam Perizinan Pertanahan dengan Berlakunya UU Cipta Kerja, *Jurnal Analogi Hukum*, Vol. 4, No. 3 2022, page. 254-259

13 Urip Santoso, *Hak Atas Tanah Hak Pengelolaan dan Hak Milik Satuan Rumah Susun*, Depok, Kencana, 2017, page.215

14 *Ibid.*

foreigners to have Milk Rights over land (Article 21 paragraph 1 UUPA), Cultivation Rights (Article 30 paragraph 1 UUPA) and Building Use Rights (Article 36 paragraph 1 UUPA).

The land rights that foreigners may own are usufructuary rights. What does this mean, Indonesians, including their company representatives, can only own limited land, as long as the interests of Indonesians are not disturbed and that the Republic of Indonesia needs foreign companies to develop and build Indonesia, and as an additional component. Eman Ramelan emphasized that in the concept of a Land titles in a single apartment do not fully adhere to the principle of horizontal separation because the ownership rights in a *Sarusun* are joint property of all property rights to apartment building units, not individual rights according to the principle adhered to in the horizontal principle of the UUPA. Ownership of building rights or land rights cannot be exercised incidentally without regard to the provisions of the law in force.¹⁵

The Single Apartment is the property right over the *Sarusun* which is individual and separate. In addition to the ownership of the apartment unit, the ownership rights of the apartment unit in question also include the right of joint ownership of what is called a joint part, common land, where everything forms an integral part of the ownership of the apartment unit in question.

According to the author's opinion, foreigners who are referred to as legal subjects of land rights are foreigners who are considered domiciled in Indonesia, and those foreigners whose presence in Indonesia provides benefits for national development.¹⁶ With these provisions, foreigners can have a house for residence or residence. Foreigners who can own a house for residence or residence are foreigners who have immigration documents in accordance with legal provisions and statutory regulations. (Vide: Article 69 PP No. 18 Year 2021). The house can be built on land with the status of HP on state land or HP on land owned by another person based on a written agreement before the PPAT, or an apartment unit built on a parcel of land with the right to use land over the state. The houses that can be owned by foreigners are limited to houses that are not classified as very simple houses and simple houses. Or in other words, only houses in the medium and luxury classifications are allowed to be owned by foreigners.

Based on the article above, the rights to flats can be transferred to foreigners for foreign legal entities that have appropriate permits with legal provisions of laws and regulations. Such permits are regulated in Article 69 paragraph (1) Government Regulation Number 18 of 2021 concerning Management Rights Land, Apartment Units, and Land

15 Erman Ramelan, *Problematika Hukum Hak Milik Atas Satuan Rumah Susun dalam Pembebanan dan Peralihan Hak Atas Tanah*, Yogyakarta, Aswaja Pressindo, 2015, page.4

16 Made Pria Dharsana's paper was presented at the Seminar on Property Ownership for Foreign Citizens in Indonesia, Monday 12 December 2022, at the Swiss Bellhotel Rainforest, Bali which was organized by the DPD of the Indonesian Bali Real Estate Brokers Association.

Registration (hereinafter referred to as PP18/2021) which stipulates that¹⁰: "Foreigners who can live or the residence of foreigners have immigration documents in accordance with the provisions of laws and regulations."

Furthermore, according to Ir. Andry Novijandri, as Head of the Regional Office of the Bali National Land Agency said that in order to implement the provisions of Article 187 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning-Head of the National Land Agency Number 18 Year 2021 concerning Procedures for Determining Management Rights and Land Rights a Decree has been issued Minister of Agrarian Affairs and Spatial Planning Head of the National Land Agency Number 1241/SK-HK.02/IX/2022 concerning Acquisition and Price of Residential Houses or occupancy for foreigners as the basis for price limits for the ownership of landed houses or apartment units by foreigners.

The urgency of increasing government investment has issued Act No. 11 Year 2020 concerning Job Creation as a legal umbrella framework for investment entry, one of which is in the land sector through the convenience for foreigners in obtaining property in Indonesia, whose existence offers opportunities to provide benefits, do business, work or invest in Indonesia.¹⁷

For this reason, in an effort to support Government policies, the Ministry of Agrarian Affairs and Spatial Planning the Head of the National Land Agency has participated in formulating or issuing several policies that specifically facilitate providing convenience for foreigners in obtaining property in Indonesia, including: foreigners can currently have the right to own a flat, whether it is built on HGB or usufructuary land. This provision is regulated in Articles 144 and 145 of Law No. 11 of 2020 concerning Job Creation. However, in the previous provisions, in order to have a residential house or residence in Indonesia, you must have a permanent residence permit or a temporary residence permit.

As for the permissibility of accepting the capacity of the flat land to be built on land use rights or HGB land on state land or land with management, this is in Article 145 paragraph (1) UUCK which stipulates that; flats can be built on land; building use rights or usufructuary rights over state land; or building use rights or usufructuary rights over land with management rights. In addition, it should be noted and known that the ability to own an apartment unit by foreigners or foreign legal entities is only granted in special economic zones, free and harbor, industrial zone areas, and other economic zones

Furthermore, apart from that, there are stipulations regarding the limits on the ownership of apartment flats by foreigners or foreign legal entities, namely the minimum price, area of land parcels, number of land parcels or units and the designation for the designation of residential

¹⁷ Andry Novijandri, paper presented at the Seminar on Property Ownership for Foreign Citizens in Indonesia, Monday 12 December 2022, at the Swiss Bellhotel Rainforest, Bali organized by the DPD Indonesian Bali Real Estate Brokers Association

houses or business government residences in the area of spatial planning. The Ministerial Regulation that regulates these boundaries is the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights (hereinafter referred to as Permen ATR-KBPN NO.18/2021).

One thing that the government must not forget is that the modernization effort towards the UUPA number 5 of 1960 turned out to have a very big impact on the Indonesian market. Actually taking steps in a global perspective. At first glance, I can conclude that even though there are regulations that give foreigners the ability to own property, they only have spatial rights. This means, in other words, it must be understood that foreigners cannot buy flats or land.

It confusion then arises in legal arrangements with smuggling and exploitation where the legal loopholes are land and apartment ownership instead of land use rights by Indonesians who are married to foreigners. This includes issues related to how to secure mortgage rights and related to how to guarantee mortgage rights. The question is what are the laws and regulations regarding control over ownership management, use and secret possession, and use of rental apartment flats, use of BOT and other agreements over a long period of time? Because in government regulations this has not been regulated.

Juridically, foreigners residing in Indonesia can obtain a land title with the status of Right of Use on land with the status of Right of Use. Even so, there are requirements for foreigners, namely having to take care of a Limited Stay Permit Card (KITAS) or a Permanent Stay Permit Card (KITAP) and have a passport as stipulated in Permanent Residence Permit (KITAP) and have a passport as stipulated in Regulation of the Minister of Law and Human Rights Number 43 of 2015 Concerning the Procedures for Technical Procedures for a Visit Stay Expert to Become a Limited Stay Permit and a Limited Stay Permit to Become a Permanent Resident. Limited Stay Permit to Permanent Residence Permit¹⁸.

For foreigners who want to build a residence or house in Indonesia, they can build it on Hak Pakai land. As for the area of land that can be built, it is regulated in the Regulation of the Minister of Agrarian Affairs / Head of BPN Number 29 of 2016, namely only one plot of land for foreigners or with their families with a maximum area of 2000m² (two thousand square meters). In addition to Hak Pakai or building a house on Hak Pakai land, foreigners can also have Hak Sewa for buildings for other purposes, for example for use in business management. The status is only Hak Sewa Untuk Bangunan (Right of Lease for Buildings) as evidenced by an agreement made in writing on the lease of a building or house made between the the owner of the building or house and the foreigner who is the tenant (Lease

18 Megalia Sarah Poeloe, Status Hak Kepemilikan Properti Bagi Orang Asing, *Lex Et Societatis*, Vol. 2, No. 6, 2014, page.27–37

Agreement).¹⁹

The government to be aware of the possibility of legal smuggling by foreign nationals in terms of ownership of land rights by foreigners and foreign legal entities. This lawyer argues that legal smuggling of foreigners from legal entities foreigners is due to the law prohibiting the granting of certain land ownership rights to legal entities. Granting the highest land rights.

Articles will grow rapidly to attract more investors to invest in Indonesia than in other Asian countries, such as Singapore and Malaysia. And the policy related to the apartment is from the author's point of view, while countries such as the United States, China and the United Kingdom look to close, Indonesia is a property right that is given to Indonesians and legal entities that are only engaged in religious, social, community and banking businesses, meanwhile foreigners only have usage rights and rental rights, while the rights of commercial legal entities are given building use rights, business use rights, and management rights. This difference in treatment is due to the fact that source land law in Indonesia originates from customary law, where protection for Indonesians is higher, for example ulayat land.

Therefore, according to Anita Kolopaking, legal arrangements can provide legal certainty in the ownership of land rights for foreigners and commercial legal entities so that this difference in treatment does not lead to legal smuggling. While Sunaryati Hartono is of the opinion that in carrying out legal development, namely perfecting (making something better), changing it to be better and modern and holding something that does not yet exist and or eliminating something that is contained in the old system, because it is not needed and does not fit the system new.²⁰

Then, can houses or residences, land and apartments owned by foreigners or owned by Indonesians who are married to other people be rented out or by other parties in exchange for cash payments in other forms? Or get a residence owned by a stranger to become part of a house or land under construction for lease or cultivation for another business? From the potential problems above, it's time to set clearly. Both through PP and Permen both provide legality of legal certainty. The government often argues that the purpose of the Job Creation Law is to encourage investment to increase national economic growth. Apart from the noble purpose of this regulation, there is controversy regarding granting the status of a foreigner apartment owner.

It should not be allowed for foreign nationals to control land with ownership rights, where if they do, the land is controlled by the state. This is in accordance with what is stipulated in Article 26 paragraph (2) of the UUPA which aims to reduce the ownership of land rights by foreigners who wish to reside or open businesses in Indonesia.

19 Kartini Muljadi and Gunawan Widjaja, *Hak-Hak Atas Tanah*, Jakarta, Kencana, 2003, page,34

20 Anita D.A.Kolopaking, *Penyelundupan Hukum Kepemilikan Hak Milik Atas Tanah di Indonesia*, Bandung, PT Alumni, 2013, page.204

²¹Meanwhile, the latest regulation now allows foreign nationals to have the opportunity and reside in Indonesia.

The frictional controversy regarding the granting of apartment flat owner status to foreigners includes: First, constitutionally the Constitutional Court Decision specifically states that Law No. 5/1960 and PP No. 40/1996 apply to property rights, HGU, HGB and usage rights. Provisions of Article 143 jo. Part of Article 145 of the Job Creation Law concerning the granting of ownership rights to flats to foreigners above HGB is error in persona. Indeed, the article in Law No.5/1960 and PP No.40/1996, legal subjects of property rights, HGU, and HGB are Indonesian people and Indonesian legal entities, while foreigners are only given the status of usufructuary rights and lease rights.

Second, from a legal point of view, the provisions relating to the granting of flat ownership rights to foreigners over HGB overlap with Article 19, Article 20 and Article 21 of Law No.20/2011 concerning Flats which stipulate that the use of land owned by country for the construction of flats is by renting or using cooperation utilization. Therefore, there is a standard conflict between the work copyright law and the law on flats. Third, this is inconsistent with the principles of nationalism, the principles of Indonesian socialism and the principles of infringement on the rights of foreigners as agrarian law and the principles of housing and settlement law. In the context of land ownership, the interests and needs of the Indonesian people must be prioritized and prioritized.

The idea of privileged citizens also has theoretical justification, as quoted from the excerpt from Jhon Chesterman and Brian Galligan: citizenship has traditionally been an exclusive category because citizens have basic rights and privileges that non do not share (citizens have traditionally been an exclusive category because citizens The state has basic rights and privileges that are owned by non-citizens.

Fourth, reduce the degradation of social functions to the existence of state land. In principle, land control by the state aimed at citizens is the aim of the state. In fact, through this state, land can be used as an object of agrarian land reform to distribute to the poor who do not own land or houses in order to realize social justice for all Indonesian people. Fifth, ignoring the results of the study by the National Legal Development Agency, regarding the analysis and evaluation of laws and regarding public housing, which states that foreigners cannot have ownership certificates for flats built by HGB. Apartment flats built on the basis of certain rights will have the same character as the basis of rights. The right to own land is only valid temporarily, while the right to occupy and inhabit foreigners is only possible by way of renting or usufructuary rights over a house. Countries such as China, Singapore and Malaysia only provide land use or land rent, not land rights for foreign nationals'

21 Muhammad Faniawan Asriyansyah, *Kepemilikan Tanah Bagi Warga Negara Asing Atas tanah di Indonesia*, cited in <https://www.djkn.kemenkeu.go.id/kanwil-sumut/baca-artikel/15842/Kepemilikan-Tanah-Bagi-Warga-Negara-Asing-Atas-Tanah-di-Indonesia.html>.

land tenure in their country.

D. CONCLUSION

The Ownership of land rights over flats is not completely horizontal to meet the horizontal principle as stipulated in the UUPA. Because property rights are owned by all holders of ownership rights to the apartment unit. Owners of apartment flats can be given to anyone who fulfills the requirements as a holder of land rights. Currently, many foreign citizens and foreign legal entities own apartment units in Indonesia. For commercial business purposes, investment or use as a residence. However, that is the case with all actions of apartment owners, foreigners and foreign legal entities. These ownership rules should still pay attention to the provisions of Act No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA), Act No. 20 of 2011 concerning Flats, Act No. 11 of 2020 concerning Job Creation, Government Regulation Number 18 Year 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration as well as several other regulations that are currently oldest.

BIBLIOGRAPHY

Books:

- Amiruddin & Zainal asikin, 2012, *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Jakarta;
- Andry Novijandri, paper presented at the *Seminar on Property Ownership for Foreign Citizens in Indonesia*, Monday 12 December 2022, at the Swiss Bellhotel Rainforest, Bali organized by the DPD Indonesian Bali Real Estate Brokers Association;
- Anita D.A.Kolopaking, 2013, *Penyelundupan Hukum Kepemilikan Hak Milik Atas Tanah di Indonesia*, PT Alumni, Bandung;
- Erman Ramelan, 2015, *Problematika Hukum Hak Milik Atas Satuan Rumah Susun dalam Pembebanan dan Peralihan Hak Atas Tanah*, Aswaja Pressindo, Yogyakarta;
- I Nyoman Sujana, I Nengah Renaya and I Wayan Mustika Adi Prapta, Legal Satisfaction Suspended by Land Deed Official That Does Not Meet The Minimum Price Standard For Purchasing Apartment For Foreigner in Indonesia, *Jurnal Notariil*, Vol. 4, No. 2 2019;
- Kartini Muljadi and Gunawan Widjaja, *Hak-Hak Atas Tanah* (Jakarta: Kencana, 2003),The
- Made Pria Dharsana's paper was presented at *the Seminar on Property Ownership for Foreign Citizens in Indonesia*, Monday 12 December

2022, at the Swiss Bellhotel Rainforest, Bali which was organized by the DPD of the Indonesian Bali Real Estate Brokers Association;

Soeryono Soekarto, 1984, *Pengantar Penelitian Hukum*, UI Press, Jakarta;

Urip Santoso, 2010, *Hukum Agraria dan Hak-Hak Atas Tanah*, Kencana, Jakarta;
Urip Santoso, 2017, *Hak Atas Tanah Hak Pengelolaan dan Hak Milik Satuan Rumah Susun*, Kenca Depok;

Journals:

Amad Sudiro, Measuring the Openness of Land Investment Policy Related to Housing or Residential Ownership by Foreigners in Indonesia," *European Research Studies Journal*, Vol. 21, No. 2, 2018, page 165-177;

Felix Sofian, Aspek Hukum Kepemilikan Satuan Rumah Susun oleh Warga Negara Asing dengan Hak Guna Bangunan Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja, *Jurnal Hukum dan Kemasyarakatan*, Vol.3, No.4, Desember 2022;

I Kadek Suwarna I ketut Kasta Arya Wijaya dan Luh Putus Suryani, Kewenangan Pemerintah dalam Perizinan Pertanahan dengan Berlakunya UU Cipta Kerja, *Jurnal Analogi Hukum*, Vol. 4, No. 3, 2022;

Megalia Sarah Poeloe, Status Hak Kepemilikan Properti Bagi Orang Asing, *Lex Et Societatis*, Vol. 2, No. 6, 2014, page 27–37

Ricco Survival Yubaidi, The Future of Land Ownership Regulation in Indonesia, *International Journal of Multicultural and Multireligious Understanding*, Vol. 6, No. 6, 2019;

Regulation:

Act No. 11 of 2011 concerning Copyright for Works, LN.2014/No. 266, TLN No. 5599, State Secretariat LL: 57 PAGE

Act No. 2 of 2011 concerning Flats, LN.2011/No. 108, TLN No. 5252, State Secretariat LL: 57 PAGE

Act No. 5 of 1960 concerning Basic Agrarian Regulations, LN.1960/104, TLN No. 2043, State Secretariat LL: 17 PAGE.

Government Regulation Number 18 of 2021 concerning Management Rights, Land Ownership Rights, Building Use Rights, Flats Units, and Land Registration

Internet:

Hesti Rika, *Alasan WNA Boleh Punya Apartemen dalam Omnibus Law Ciptaker*, CNN, cited at <https://www.cnnindonesia.com/ekonomi/20201007195948-532-555659/alasan-wna-boleh-punya-apartemen-dalam-omnibus-law-ciptaker> On 02 May 2022;

Muhammad Faniawan Asriyansyah, *Kepemilikan Tanah Bagi Warga Negara Asing Atas tanah di Indonesia*, cited in <https://www.djkn.kemenkeu.go.id/kanwil-sumut/baca-artikel/15842/Kepemilikan-Tanah-Bagi-Warga-Negara-Asing-Atas-Tanah-di-Indonesia.html>.