



Juridical Study of Ownership of Ownership of Flats by Foreign Citizens Based on Government Regulation Number 18 of 2021 concerning Land Rights Management Rights for Flats Units and Land Registration

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Abstract: *This study aims to determine and understand the Ownership of Usage Rights of Apartment Units by Foreign Citizens Based on the Theory of Benefit. The research methods used include a statute approach and a conceptual approach, a type of normative legal research, with data collection methods through library surveys and qualitative legal analysis. The results of the study indicate that Government Regulation Number 18 of 2021 provides a legal basis for foreign citizens to have usage rights over apartment units in Indonesia but does not provide full ownership rights, this regulation provides legal certainty and clear procedures, which are expected to be further elaborated in the Ministerial Regulation. The Indonesian government needs to consider allowing foreign citizens to have ownership rights over apartment units by considering the various benefits that can be obtained. This step can increase foreign investment, encourage economic growth, improve property quality, stabilize the property market, increase state revenues, and support infrastructure development. With proper regulation and strict supervision, this policy can provide significant benefits to the Indonesian economy and society as a whole.*

Keywords: *Ownership, Foreign Citizens, Apartments*

Introduction

Rapid population growth and technological advances, people's living needs are increasing. The development of the property sector in Indonesia, especially in big cities, has shown a significant increase in recent years. One form of property that is in the spotlight is the apartment unit. Apartments are a popular choice for urban communities due to limited land and a modern lifestyle that demands practical and efficient housing.

On the other hand, globalization and Indonesia's economic progress have increased the interest of foreign citizens to own property in Indonesia. Due to international relations in various regions, many foreigners (foreign citizens) immigrate, and the need for housing and residences for foreigners is increasing. Therefore, it is necessary to develop guidelines that provide legal certainty and facilitate the provision of services and permits to obtain land rights for houses or residential buildings for foreigners.

Legal uncertainty and inconsistency in government efforts to attract foreign investors through restrictions on foreign home ownership are quite complex problems that have emerged in Indonesia, regulations stipulate that foreigners can only build houses on land

that they have the right to use. The policy regarding this problem clearly has not completely resolved the problem. The lack of number or small number of housing units built on land use rights is a problem of unfulfilled housing needs for foreigners (Ermakova, 2020; Solehuddin, 2022).

The increasing number of foreign tourist visits to Indonesia shows that there is still a possibility for foreign investors who come to Indonesia to invest or invest and intend to reside in Indonesia. The presence of Foreigners provides benefits in investment for the economic sector in Indonesia because the Indonesian Government through Government Regulation Number 18 of 2021 concerning Management Rights for Land Rights for Apartment Units and Land Registration has regulated provisions regarding ownership of apartment units by foreign citizens. This regulation is an effort by the government to balance national interests in land and property management and encourage foreign investment that can make a positive contribution to the national economy.

Before Government Regulation Number 18 of 2021 was enacted, the requirements regarding ownership of residential or residential houses for Foreigners were regulated in Government Regulation Number 41 of 1996 (hereinafter referred to as "PP 41/1996") that the requirements were only to live in Indonesia and provide benefits. Meanwhile, in Government Regulation Number 103 of 2015 (hereinafter referred to as "PP 103/2015"), several permits that need to be owned by Foreigners related to diplomatic residence permits, official residence permits, visit residence permits, limited residence permits, and permanent residence permits began to be determined.

In 2020, Indonesia announced a new regulation on job creation through Law Number 11 of 2020 by granting foreigners the right to own a house, this is contrary to the granting of land rights to foreigners based on Law Number 5 of 1960 concerning the Basic Regulations of Agriculture and Government Regulation Number 103 of 2015 concerning Ownership of Houses or Residential Buildings by Foreigners Residing in Indonesia. These regulations only allow foreigners to obtain land use rights.

After Law Number 11 of 2020 concerning Job Creation was enacted, Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration, and Government Regulation No. 103 of 2015 concerning Ownership of Residential Houses or Dwellings by Foreigners Domiciled in Indonesia are revoked. The enactment of Government Regulation Number 18 of 2021 has revoked and declared invalid Government Regulation Number 40 of 1996 and Government Regulation Number 103 of 2015.

Foreign citizens based on the UUPA can only be granted land use rights with a time period, while Government Regulation Number 18 of 2021 contains provisions that foreign citizens can obtain building use rights. Article 36 of the UUPA explains that only Indonesian citizens and legal entities established under Indonesian law and domiciled in Indonesia can be the subject of building use rights.

Foreign nationals (WNA) residing in Indonesia can obtain land rights by using the land use rights they own for a certain period of time, subject to applicable regulations. Provisions regarding the termination of foreign rights in Indonesia are contained in Article 49 paragraph (1) of Government Regulation Number 40 of 1996 concerning Land Use Rights, Building Use Rights and Land Use Rights and Article 7 of Government Regulation

Number 103 of 2015 concerning Ownership of Residential Homes or Residences by Foreigners Domiciled in Indonesia. The two regulations above have the same position.

In the global context, many countries have implemented policies that allow foreign nationals to own property with the aim of attracting foreign investment. However, each country has different regulations, adjusted to national interests and local property market conditions. Therefore, it is important for Indonesia to learn from the experiences of other countries in formulating and implementing effective and fair policies.

Methodology

Statutory Approach Method. Statutory approach. This approach is carried out by considering all laws and regulations that are relevant to the problem (legal issue) related to the research title. This legislative approach is carried out, for example, by considering the consistency of laws with the basic law. **Conceptual Approach Method** This approach begins with the views and principles that develop in legal science. Therefore, this approach is important because it is the basis for constructive considerations to resolve legal problems that arise. Opinions and doctrines clarify ideas by providing legal understanding. Legal terminology and legal principles related to legal problems. Qualitative legal analysis with the type of Normative Law research, namely answering future legal needs by analyzing secondary data, consisting of primary, secondary, and tertiary legal materials, and requiring various legal interpretations. Data collection is carried out through library research, tracing, collecting, and reviewing legal regulations, research results, scientific journals, and scientific articles. The data collection method is a library survey method obtained from laws and regulations, books, official documents, publications and research results.

Result and Discussion

Foreign Citizens (WNA) have the right to reside in Indonesia based on several factors. This means working, carrying out diplomatic missions such as becoming diplomats or ambassadors, or becoming representatives at the UN, or making long visits, etc. However, there are still certain restrictions to ensure that the presence of foreigners does not marginalize Indonesian citizens. Provisions regarding granting residence permits to foreigners in Indonesia are based on Article 48 of Law Number 6 of 2011 concerning Immigration.

Previously, the Regulation regarding flats was regulated in PP Number 103 of 2015 limiting WNA who if they have flats on land rights must be occupied. However, if the WNA does not reside in Indonesia for up to one year, then there are two options, namely the WNA can hand over the flat to the state or it can be forcibly confiscated by the state. Transferring a housing unit to heirs or other people who can transfer it in accordance with laws and regulations. If the flat is not transferred, then the unfurnished flat will be auctioned by the state or become the property of the owner of the rights to the goods concerned. This is based on Article 10 of PP No. 103/2015. Furthermore, Article 71 Paragraph 1 of PP Number 18 of 2021 also stipulates that "the following restrictions apply to the ownership of housing units that may be owned by foreigners":

"Residential or residential houses that can be owned by Foreigners are:

A. Landed houses on Land:

1. right of use; or

2. right of use above:
 - a. ownership rights, which are controlled based on an agreement granting the right of use above the ownership rights with a deed of the Land Deed Making Officer (PPAT);
or
 - b. Management Rights, based on a Land utilization agreement with the holder of the Management Rights
- B. Flats built on land:
 1. right of use or building use rights on State Land;
 2. right of use or building use rights on Management Rights Land; or
 3. right of use or building use rights on owned Land."
- C. Article 71 paragraph 2 states: "Houses built on land use rights or building use rights as referred to in Article 1 (b) must be built in special economic zones, free trade zones, and free ports are housing units.

Therefore, if we look at the criteria above, the entry of a certain place is regulated as ownership of a housing unit by foreigners (WNA), so that foreigners cannot always buy a housing unit according to their wishes. The limitation of foreigners' rights is that housing in the form of flats can only be built on land used on state land.

Considering Article 9 in conjunction with Article 21 paragraph (1) of the UUPA, only Indonesian citizens may own land, and foreigners are only given the right to use or rent it based on Articles 41 and 42 of the UUPA. In fact, the status of "owner of property rights" is also widely sought by foreigners who really want to get the highest land rights. Not just investment (capital investment or funds) with the hope of future profits, but also as a means to obtain credit loans from all banks in Indonesia.

Foreign citizens cannot own land in Indonesia due to regulations in the Basic Agrarian Law (UUPA) No. 5 of 1960. This law stipulates that land ownership rights can only be owned by Indonesian citizens. Article 71 of Government Regulation Number 18 of 2021 is the basis for determining further provisions regarding the implementation of management rights, land rights, apartment units, and land registration through Ministerial Regulations. This article does not specifically regulate ownership rights for foreign citizens, overall this government regulation provides an important legal basis for ownership of use rights over apartment units by foreign citizens.

Government Regulation Number 18 of 2021 provides a legal basis for foreign citizens to own use rights over apartment units in Indonesia. Without providing full ownership rights, this regulation provides legal certainty and clear procedures, which are expected to be further elaborated in Ministerial Regulations. Thus, this PP can provide significant economic and investment benefits for Indonesia, while maintaining national interests and the interests of local communities.

From the perspective of the theory of utility, foreign nationals having ownership rights to land in Indonesia is designed to produce the greatest benefits for the Indonesian people. Giving foreign nationals ownership rights to apartment units has several significant benefits, both for the country's economy and for the development of the property sector. Here are some reasons why this is important:

1. Increasing Foreign Investment

Attracting Foreign Capital: Giving ownership rights to foreign nationals can attract more foreign direct investment (FDI) into the property sector. This can be an important source of capital for infrastructure development and urban area development.

Increasing Property Demand: With interest from foreign buyers, demand for property, especially apartments, will increase, driving the growth of the real estate market.

2. Increasing Economic Growth

Contribution to GDP: Investment in the property sector by foreign nationals can make a significant contribution to gross domestic product (GDP) through increased economic activity and employment. **Infrastructure Development:** Foreign investment is often accompanied by the development of supporting infrastructure such as roads, transportation, and other public facilities, which improve the quality of life of local communities.

3. Technology Transfer and Expertise

International Standards: Foreign nationals often bring with them international standards and practices in property development and management. This can improve the quality of property construction and management in Indonesia. **Increased Local Competence:** The presence of foreign investors can provide opportunities for local workers to learn and adopt more efficient and modern technologies and working methods.

4. Property Market Diversification

A Variety of Property Choices: Opening up property ownership to foreign nationals can encourage diversification of the types of property available in the market, meeting a variety of preferences and needs. **Market Stability:** With more players in the market, including foreign nationals, the property market becomes more stable and resilient to domestic economic fluctuations.

5. Increased Tax Revenue

Tax Revenue: The purchase and ownership of property by foreign nationals can increase tax revenues from property transactions, ownership taxes, and income taxes from property investments. **Repayments and Other Fees:** The government can also earn additional revenue from repayments, registration fees, and other administrative fees related to property ownership by foreign nationals.

6. Development of Remote Areas

Regional Investment: Granting ownership rights to foreign nationals can encourage investment in less developed areas, help equalize development and reduce economic disparities between regions. - **Increased Property Values:** Foreign investment can increase property values in surrounding areas, benefit local property owners and support local economic development.

Granting ownership rights to condominium units to foreign nationals has various significant benefits, including increasing foreign investment, encouraging economic growth, introducing international standards, diversifying the property market, increasing tax revenues, and developing remote areas. This policy, if properly regulated and accompanied by proper supervision, can provide significant benefits to the Indonesian

economy and local communities. The importance of granting ownership rights to condominium units to foreign nationals.

The Indonesian government needs to consider allowing foreign nationals to own ownership rights to condominium units considering the various benefits that can be obtained. This step can increase foreign investment, drive economic growth, improve property quality, stabilize the property market, increase state revenue, and support infrastructure development. With proper regulation and strict supervision, this policy can provide significant benefits to the Indonesian economy and society as a whole.

Conclusion

Based on the results of the discussion and description above, the Ownership of Usage Rights for Apartment Units by Foreign Citizens Based on the Theory of Benefit, namely: Government Regulation Number 18 of 2021 provides a legal basis for foreign citizens to have usage rights for apartment units in Indonesia. Without providing full ownership rights, this regulation provides legal certainty and clear procedures, which are expected to be further elaborated in the Ministerial Regulation. Thus, this PP can provide significant economic and investment benefits for Indonesia, while maintaining national interests and the interests of local communities. From the perspective of the theory of benefit, foreign citizens have ownership rights to land in Indonesia designed to produce the greatest benefits for the Indonesian people. Giving foreign citizens ownership rights to apartment units has several significant benefits, both for the country's economy and for the development of the property sector. Giving ownership rights to apartment units to foreign citizens has various significant benefits, including increasing foreign investment, encouraging economic growth, introducing international standards, diversifying the property market, increasing tax revenues, and developing remote areas. This policy, if properly regulated and accompanied by proper oversight, can provide significant benefits to the Indonesian economy and local communities. The importance of granting ownership rights to condominium units to foreign nationals. The Indonesian government needs to consider allowing foreign nationals to own ownership rights to condominium units considering the various benefits that can be obtained. This step can increase foreign investment, encourage economic growth, improve property quality, stabilize the property market, increase state revenues, and support infrastructure development. With proper regulation and strict oversight, this policy can provide significant benefits to the Indonesian economy and society as a whole.

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