

LAND AND APARTMENTS FOR FOREIGNERS IN INDONESIA (CRITICAL STUDY OF THE ENACTMENT OF PP 18 OF 2021)

I Made PriaDharsana, Law Universitas Warmadewa Denpasar
I NyomanPutuBudiarta, Law UniversitasWarmadewa Denpasar

ABSTRACT

The development of globalization is a necessity. With advances in transportation and communication technology, the mobilization of people and goods is so fast and increasingly cheaper. Competition between countries to attract investment to their countries cannot be denied with conveniences and competitiveness. The process of changing licensing regulations that hinders a conducive investment climate and has global competitiveness that hinders trimming and simplification, including in Indonesia. The administration of President JokoWidodo and Vice President Ma'ruf Amin, prior to the administration of President JokoWidodo Vice President Jusuf Kala has announced an increase in the convenience for investors to invest their capital. Many obstacles and obstacles are caused by the number of laws and regulations, both from the central government to the regions. Take care of the licensing process for the establishment of a company until then land acquisition for direct investment, and production can take months or even years. This is why not many foreign investors, both individuals and foreign legal entities, want to come and invest in Indonesia. This is what then underlies the Jokowi administration to cut the complicated licensing process and make it difficult for direct investment to enter Indonesia. And because of that the second period of Jokowi's government launched the Omnibus Law which cut several articles of the Law and other legislation to be ratified by the House of Representatives, and we know that in the midst of the outbreak of the Covid-19 pandemic, and the demonstrations that were so rife on the Omnibus Law Bill, even so, the DPR successfully passed Law Number 11 of 2020 concerning Work Creation. However, it should be noted that there are problems ranging from overlaps to violations that are considered to occur in the principle of citizen nationalism against the Dualism of Land Law UUPA and Land in the substance of the contents of the Omnibus law Article so that the author is interested in further examining the legal issues related to this research and Normative approach method.

Keywords: Land and Apartments, Foreigners, Land Rights in Indonesia

INTRODUCTION

At first, Indonesia applied Agraris Wet as a regulation of the Dutch East Indies Government at that time, the Domeinverklaring made lands which were not controlled by a right by the indigenous people, belonged to the state. The benefits of land were fully enjoyed by the colonizers and European traders, thus giving birth to misery for indigenous citizens due to not having their own cultivated land and being agricultural laborers or being slaves to be employed. The difference between the concepts of domainverklaring is different from the conception of land ownership by the state expressed by legal experts namely Kosuke Mizuno, Motoko S Fujita & Shuichi Kawai (Mizuno):

“The Basic Agrarian Act 1960 revoked The Agrarian Act and Agrarian Decree of 1870 and related law and regulation, explaining that concept of the state domain and the colonial era did not concur with the Indonesia people's concept of the law. Article 33, item 3 of the 1945 Constitution, which served as a precursor to the new Agrarian Law Stated, “the Land and the water as well as the natural riches, there in

are to be controlled by the state to be exploited to the great benefit of the people. “The explanatory notes of the Basic Agrarian Act explain that the control referred to the constitution does not signify ownership and that the state must not act the land owner.”

In 1960 in order to create a regulatory system in the land sector that addresses problems in the land sector, and also aims to regulate and manage the utilization, earth, water, space and natural resources contained therein for the greatest prosperity so as to at the same time eliminate *domenverklaring* in the land system in Dutch colonial era. The change and transition from the land system of the Dutch East Indies government changed to a Land Nationalist Arrangement through an Inventory of Problems and Experts’ Mindset on land at that time changed right after the enactment and enactment of the Basic Agrarian Law Number 5 of 1960 hereinafter referred to as (UUPA) which revoked *Wet Agrarianism*. The philosophically, the meaning of the Conception on the Considerations to consider the LoGA is adjusted to the request at that time. This at the same time eliminates the dualism of land law that has been the prevailing legal system in Indonesia, namely customary law and western law. Land as a natural resource which is very important for development is certainly a basic capital for Indonesia, in the case of land, of course, the same regulation is required. The countries in the world in their management are based on and depend on the economy to create an advanced economic system in sustainable development. In doing so, of course utilizing natural resources, Direct and Indirect Investment, Domestic Trade through the principles of kinship and Religion through (Sharia Principles), International Trade in various agreements both bilaterally and multilaterally in prospering and advancing social life (Maria, 1997). Indonesia itself has a philosophical concept that is adopted in the 1945 Constitution of the Republic of Indonesia in Article 33 paragraph (3) that:

“Earth, Water and Natural Resources under it are controlled by the state and are used as much as possible for the prosperity of the people”.

If we review the meaning of Article 33, the State is not the legal subject of the owner of the lands occupied by the people but as the holder of power in regulating the designation, use of (abandoned) land and other uses for the benefit of the Indonesian nation. A regulation or policy is certainly based on justice and utilization of the parties, both the community itself, business actors and the government, but if the regulatory arrangements are still overlapping, this will cause problems in the future. This began when the government formed a law and regulation based on investment in Indonesia in 2020 which was predicted to be an arrangement that accommodates many legal substances, both in the field of Ease of Investment which is guided by (EODB). The regulation also opens the door for the development of the industrial sector in the form of widening the door in the field of domestic investment, the sector of land use for businessmen (investors) who wish to build a business in the country, either directly or in joint ventures with local entrepreneurs. The Indonesian government in this case regulates the use of land and housing for foreigners. The availability and mechanism for obtaining land rights for investment purposes is not easy and very difficult in the midst of large needs while the availability of land is limited. A lot of land is controlled by businessmen with expired land rights and abandoned land, so as to overcome land limitations for investment and for urban housing development in the form of a body in the form of a Land Bank Agency. Likewise, in the provisions of PP 8 of 2021, it regulates the ease of doing business for the formation of Micro and Medium Business Units to have the opportunity to be able to fight to become a company that is labeled as a limited liability company so that the government takes the initiative to create derivative regulations from the Job Creation Law or Omnibus law. However, from the many aspects of the regulation in the Work Creation Law (Omnibus law), the author is more specifically discussing the use of land for foreigners, namely the crucial issue of Article 127 of the Job Creation Law which in essence regulates land whose use is submitted to the Land Bank. In this case, politicians, legal experts, academics are of the opinion that a new problem arises in the form of two types of land management, namely overlapping the concept of UUPA and Substantive land in the Omnibus law and the time period for regulating rights, both Building

Use Rights (HGB), Business Use Rights (HGU). And the Right to Use (HP) given a period of 90 years is considered to exceed the excess limit of the Concept of Nationalism on the Subject of *Naturalijk* person. Considering that what should refer to Article 16 paragraph (1) of the Basic Agrarian Law (UUPA) provides ownership rights to land by the state to individuals or legal entities in the form of freehold land, land use rights, HGU, HGB, Use Rights, Rights. Rent, Right to open land, Right to collect forest products. Article 53 of the UUPA contains several temporary rights that can be exercised by individuals or legal entities such as Liens, Production Sharing Business Rights, Passenger Rights, and Agricultural Land Lease Rights.

Moving on from the main concept of Land in Indonesia, the Government has various ways in terms of attracting investment, namely through direct investment or indirect investment which allows companies to bring in foreign staff and foreign employees as stipulated in foreign workers in Indonesia. And the development is if foreign workers need a place to live or occupy which is then arranged to own houses and apartment units in Indonesia. They can own land rights in Indonesia. Foreign citizens or foreigners can own landed houses and apartments, although until now there is still debate among legal experts about the rights that can be granted by the government to foreigners. Whereas “Property Rights to Flat Units” other than Indonesian citizens, foreigners are also allowed to own flats. The Minister of Agrarian Affairs and Spatial Planning - BPN RI, Sofyan A. Djalil, as we quoted from CNN (7/10/20), explained the reasons for allowing foreign nationals (WNA) to own flats or apartments in the Work Creation Law (Ciptaker Law).), on the grounds that the granting of unit ownership rights to flats (SARUSUN) to foreigners does not violate the provisions contained in the Basic Agrarian Law which was later called (UUPA) because apartments are different from landed houses. In addition, in the ownership of a flat or apartment, after all, the land is jointly owned by each unit owner so that the land area will not be significant compared to the landed house. In addition, the ownership rights to the SARUSUN granted to foreigners do not include joint land ownership rights. This is a matter of debate and requires in-depth study.

Law Number 11 of 2020 concerning Work Copyright gives foreign citizens (WNA) ownership rights to apartments that are owned in the sense of property rights, not according to the provisions of Article 16 of the LoGA. Sofyan A. Djalil. Previous provisions prevented foreigners from owning a home in Indonesia. Whereas the previous provisions neither hinder nor prohibit foreigners from owning housing in Indonesia. It’s just that the land title is limited to the length of the leg of use with a period of 30 years, can be extended for 20 years, and renewed for 30 years (a total of 80 years) which is in UUPA Number 5 of 1960 jo. PP No. 103 of 2015. It’s just not clear because legal experts have a view that in the Indonesian National Land Law there is a principle of “Prohibition of Alienation of Land” (*grondsverpondingverbrood*), which prohibits land ownership with rights other than Use Rights and Lease Rights to be owned by foreigners. The consequence of this principle is that foreigners cannot own land with ownership rights in Indonesia (only allowed with use rights and lease rights). This is regulated in articles 42 and 45 UUPA no. 5 of 1960; Article 39 PP No. 40 of 1996 concerning HGU, HGB and Use Rights on Land; PP No. 41 of 1996 concerning Ownership of Residential or Residential Houses by foreigners domiciled in Indonesia as amended by PP. 103 of 2015 (State Gazette No. 325 of 2015), which regulates “Ownership of Residential Homes by Foreigners Domiciled in Indonesia” on December 28, 2015. The ease of regulating foreigners having a residence and housing in Indonesia is not matched with the enthusiasm of the parties concerned to implement it. Since formal legal provisions are less desirable, it can be said that a shortcut was then taken. One of the distrust of foreigners is that they only get cellphones because of their limited time. Apart from the lack of understanding of the information they receive about what use rights are, what is the difference between ownership rights.

It cannot be denied that the birth of the land cluster related to this system does not actually refer to the previous law, namely Law Number 20 of 2011 concerning Flats, and UUPA Number 5 of 1960 which in the correct legal hierarchy should be created to revise, delete, or amending the existing law. However, the government is of the opinion, ownership of flat units is different from the rules for ownership of a landed house. Therefore, the Job Creation Law

allows foreigners to only have space rights, not own land that is not a usage right. Which becomes a consideration that cannot be accepted by common sense, because how is it possible for a building to be built without being erected on land with the status of Ownership or Building Use Rights that do not allow foreigners to get it, except for apartment units that stand on the Right to Use. For information, Law Number 5 Year 1960 Article 21 paragraph 1 states that only Indonesian citizens can have property rights. Then paragraph 2 states, foreigners who after the enactment of this law obtain property rights due to inheritance without a will or mixing of assets due to marriage within 1 year of obtaining ownership rights over land must release them to an Indonesian citizen, or change the status of the ownership rights to rights of use. It is different with Indonesian citizens (WNI) who have property rights and after the enactment of this law, those who lose their citizenship are required to relinquish that right within one year of obtaining the right or loss of citizenship. And if after that period of time, the ownership rights are not released, and then the right is nullified because the law and land fall on the state, provided that the rights of the other party remain to be imposed on them. And Indonesian citizens who carry out marriages with foreigners can have the same Land Rights as Indonesian citizens (Article 70 paragraph 1 of Law 11 of 2020), provided that the Land Rights as referred to in paragraph (1) are not joint assets which evidenced by the agreement on the separation of assets between husband and wife made with a notary deed, Article 70 paragraph 2 of Law 11 of 2020, Article 70 paragraph (1) of Government Regulation number 18 of 2021 concerning Management Rights, Land Registration and Property Rights of Apartment Units (Harsono, 2005).

In the UUPA, it has been stipulated that foreigners are not allowed to own freehold land, land use rights (HGU), and building use rights (HGB), only lease rights and usage rights are allowed (PP 40 of 1996). This is in Article 144 paragraph 1 of the Job Creation Law, it is explained that ownership rights to apartment units can be given to them; Indonesian citizens, Indonesian legal entities, foreigners who have permits in accordance with the provisions of laws and regulations, foreign legal entities that have representatives in Indonesia; or Representatives of foreign countries and international institutions that are located or have representatives in Indonesia. Not only that, paragraph 2 of the same article also states that ownership rights over apartment units can be transferred or transferred and guaranteed. Furthermore, in article 67 paragraph (1) letter c, it states "Foreigner who has a license in accordance with the provisions of statutory regulations. Point (d) also states foreign legal entities that have representatives in Indonesia or representatives of foreign countries and international institutions that are located or have representatives in Indonesia (Chesterman, 1997).

In developing a globally competitive investment climate, the government is trying to modernize UUPA No. 5/1960 which has had a huge impact on the Indonesian market. The market will develop rapidly so as to attract more investors to invest in Indonesia than other Asian countries, such as Singapore and Malaysia. And policies related to this system, at a time when countries such as the United States, China, and the UK appear to be closing themselves off, the Indonesian government is taking steps from a global perspective. Although there are regulations that give foreigners the opportunity to own property, but only space rights. This means, in other words, it must be understood that foreigners cannot buy flat and land that is not established on land use rights. What becomes the study of how a flat is built not on land, because there are several other requirements which are also contained in a Government Regulation (PP 18/2021, which was promulgated on February 2, 2021, State Gazette of the Republic of Indonesia Year 2021 Number 28): the first requirement is that foreigners can only buy apartments that are built on land use rights (HGB). If the apartment house is lost, the ownership of the foreigner's residence will also be lost. It is regulated in the PP, that apartments intended for middle and low income people cannot be bought by foreigners. However, the key strategy of the government, which is currently intensively carrying out agrarian reform efforts with this rule, will of course be detrimental or it can be said to deviate from the UUPA because the expansion of apartment ownership rights for foreigners will make it more difficult for the poor to get flat. And it could be that many poor people do not have access and rights to land. However, amid the congestion of the agrarian reform agenda, the Job Creation Law appeared

with a business orientation for foreigners and foreign business entities. What does this mean; this policy can have an impact on the inequality of land tenure structures in Indonesia because that will benefit foreigners and foreign business entities. This must really become the government's concern, that the policies taken have taken into account the impacts that can be generated, especially with the many criticisms of this policy. Based on the above description, new problems emerge which lead to misinterpretation and create legal arrangements that are easy to exploit and become pieces used to smuggle laws because there are loopholes in the law that are not Indonesian citizens but can have ownership through mixed marriage between them. FOREIGNERS and WNI, so that if this problem is left in the future, it will become a problem that has a domino effect, one of which is the problem related to Guarantee of Mortgage Rights.

METHODS

In this legal research the author uses the Legal Research Method which is guided by the Normative approach, considering that there are many overlapping arrangements in the discussion that examines the giving which is then entitled and can qualify as land tenure for foreigners in the matter of the principle of appropriateness of Nationalism. So that the study of literacy, both books, articles, laws, principles and theories and philosophical foundations and supporting materials for legal research here have an adequate level of relevance in reviewing, exploring and interpreting the legal point of view in this study.

RESULT AND DISCUSSION

Granting Control Rights through Land Ownership for Foreigners is a Problem of the Appropriateness of Nationalism Principles

Laws and arrangements regarding control over the management of utilization, use and covert ownership of land and apartments that use leases, use of loans, BOT, and other agreements over a long period of time? Because in a government regulation this has not been regulated. Then, can the house or residence, land and apartment owned by foreigners or owned by Indonesian citizens who are married to foreigners can be rented or used by other parties in exchange for payment of money or other forms? Or can the residence owned by foreigners be shared with part of the house or land that was built by a building to be rented, rented or cultivated for other businesses? From the potential problems above, it is time to be clearly regulated. Either through PP or candy to get legal certainty. The view is that the provisions on the length of the lease term have not been clearly regulated in Article 44 of the UUPA, even though in the provisions of explanation II letter f it is mandated by the State to be present to regulate the provisions regarding this lease. (I Made PriaDharsana, dissertation, 2017) The government argues that the purpose of the Job Creation Law itself is to boost foreign investment in order to increase domestic economic growth. From the point of view of scholars and observers of land, they say that apart from the noble purpose of this regulation, there is still controversy regarding the granting of flat property rights to foreigners, among others;

- 1) Constitutionally, the Constitutional Court Decision Number 21-22/PUU-V/2007 states specifically regarding Property Rights, HGU, HGB, and Use Rights, Law No. 5/1960 and PP No.40/1996 apply. The provisions of Article 143 jo. Article 145 of the Job Creation Law regarding the granting of Property Rights of Apartment Units (HMRS) to foreigners over HGB is an error in person. This is because in Law No. 5 of 1960 and Government Regulation No. 40 of 1996, the legal subjects of Property Rights, HGU and HGB are Indonesian citizens and Indonesian legal entities, and foreign legal entities. Meanwhile, foreigners are only given the status of usage rights and lease rights (Article 39 letter e PP 40 of 1997 and article 46 UUPA);
- 2) Juridical, the provisions for granting Property Rights to Flats to foreigners over HGB overlap with Article 19, Article 20, and Article 21 of Law Number 20 of 2011 concerning Flats which states that the use of state-owned land for the construction of flats is carried out by leasing or utilization cooperation. So that there is a conflict of norms between the Job Creation Law and the Apartment Law;

- 3) There is a lack of harmony with the principle of nationality, the principle of Indonesian socialism, and the principle of prohibiting the transfer of property rights to foreigners as the principle of agrarian law and the principle of housing and settlement law. In the context of land ownership, the interests and needs of Indonesian citizens must be prioritized and prioritized.

The idea of privileging citizens is also justified in theory, as stated in JhonChesterman and Brian Galligan's excerpts: citizenship has traditionally been an exclusive category because citizens have basic rights and privileges that non-citizens do not share (citizens are traditionally an exclusive category. because citizens have basic rights and privileges that are not owned by non-citizens) (Chesterman, 1987).

- 1) To degrade the social function of the existence of state land. In principle, land controlled by the state is intended for the benefit of citizens. In fact, through state land it can be used as an object of agrarian reform to be distributed to the poor who do not have land or a home for the sake of realizing social justice for all Indonesian people.
- 2) Ignoring the results of a study by the National Law Development Agency (2013), regarding the Analysis and Evaluation of the Legislations on Public Housing, this states that foreigners cannot have a certificate of ownership of a flat built on HGB.

Apartment units built on a certain land title will have the same character as the land title. Land ownership rights only apply to Indonesians, while the right to occupy and occupy by foreigners is only possible by means of a lease or use right over a house. Countries such as China, Singapore and Malaysia only provide land use or land rent, not land rights to control over foreign lands within their country.

Talking about SARUSUN Ownership for foreigners, and granting land rights or management rights in land and basement spaces, of course it must include philosophical aspects, and for that it must be ascertained whether the regulations were formed based on Pancasila and the 1945 Constitution. Furthermore, in terms of aspects sociology, to ensure that the regulations are made to meet the needs of the community, and the juridical aspect is to determine whether the regulations formed to solve legal problems have considered existing regulations, which will be repealed or amended in order to achieve legal certainty and a sense of community justice. Based on these three aspects:

- a) The norms referred to, the purpose for which it is formed, the underlying principles or principles are drawn up;
- b) A conception based on related legal fields, in this case referring to the National Land Law; and
- c) How is the legal construction?
- d) Furthermore, empirically, it must be based on research results which at least contain:
 - a. Current implementation practices, existing conditions, and problems faced by the community.
 - b. The impact of the application of the new regulations on aspects of community life, and others.

In granting ownership of apartments to foreigners, the Minister of ATR/BPN said that the right to use for apartments was considered an obstacle for foreigners working in Indonesia. It states that the foreigner needs the space (meaning: the building), the foreigner buys an apartment without land, because he knows it or not, what the Minister of ATR means is a flat that stands on leased land. Even without any special rules made by law, there is no problem if foreigners buy apartments that stand on leased land. This statement is in accordance with the definition of a flat in Article 143. However, it is different from what was stated by the Minister of ATR, which is also regulated in the Act, which indicates that foreigners and foreign legal entities are allowed to have flat units on HGB land (Article 145), and even given them. Guarantee that joint land with HGB status can be granted extension and renewal of rights after obtaining a Certificate of Acceptability. One thing that is no less complex is that what is regulated in the Job Creation Law is contrary to the UUPA and the Law on Flats (UURS), so in the Elucidation of the Law it is stated that this provision only applies in Special Economic Zones (KEK). The question is,

does the existence of KEK give legitimacy to make regulations that contradict the UUPA, UURS, and other related regulations? So, are SEZs a “state within a state”, or vice versa, are KEKs not included in the territory of the Republic of Indonesia so that they do not submit to the legal jurisdiction of the Republic of Indonesia? In order not to let this provision only serve as an entry point for control of an apartment for foreigners without clear provisions, especially weak supervision over violations of applicable regulations.

Another question, who can guarantee that the rules for the ownership of flats by foreigners in this law are not, followed by developers outside the KEK, so that violations of the principles of the UUPA and UURS are also legal for locations outside the KEK? If the Land Bank was primarily formed to provide land to investors in the hope of creating the widest possible employment opportunities, the question is, where did the land for the investor come from? Of course, from the results of land acquisition originating from community land and customary law communities (MHA). If so, whether the land obtained from the release of forestry areas, the land release of customary law communities is in the right location and is in accordance with the development zone for housing or plantation areas offered to investors, otherwise the area will be wasted without clarity.

If this happens, then the community and the MHA who previously owned land and obtained the results/production from working or taking advantage of and exploiting land and other natural resources in the environment where they live/work and/or within their territory, with compensation given, they have relocated. Independently, far from the original place of residence, without the certainty of obtaining socio-economic welfare that is at least equal to the previous conditions. This is certainly not in line with the noble plan of land tenure for the welfare and greatest prosperity of the people.

Not All Foreigners have the Capacity to Obtain the Right to Stay

In Government Regulation (PP) Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration issued by the Government of President Joko Widodo (Jokowi), then this rule is a derivative of the provisions of Article 142 and Article 182 letter b Law Number 11 of 2020 concerning Job Creation. The regulation states that foreigners or foreign nationals (WNA) can own a flat unit (SARUSUN).

The criteria for foreigners or foreigners are people who are a not Indonesian citizen (WNI) whose existence provides benefits, does business, works, or invests in Indonesia. These drafted regulations give foreigners the opportunity to have usage rights with a period of time as well as ownership rights to apartment units (HM-SRS). Of course, foreigners who can get this right already have a permit in accordance with statutory regulations. Then what are the ownership rights to a residence or residence that can be owned by a foreigner?

According to government regulations, the rights that can be owned by foreigners consist of the rights:

- a) Land on land in the form of use rights, or use rights over ownership rights, which are controlled by virtue of an agreement granting Usufructuary rights over ownership rights with the deed of the Land Maker Official, or Management Rights, based on the land use agreement with the holder of the Management Right.
- b) Flats built on land parcels with usage rights or building use rights over state land, use rights or building use rights over land management rights, and use rights or building use rights over private land. However, with a note that the flats are built in special economic zones, free trade areas and free ports, industrial areas, and other economic zones. It should be noted that this right will also be granted with a number of provisions, such as minimum price, land area, number of land parcels or apartment units, as well as residential or residential designation.

“Ownership rights to apartment units are granted to Indonesian citizens (WNI); Indonesian legal entities; foreigners who have permits in accordance with the provisions of laws and regulations; foreign legal entities that have representatives in Indonesia; or representatives

of foreign countries and international institutions is located or has a representative in Indonesia, “as stated in Article 67.

This regulation changes, removes and/or establishes new arrangements for several provisions stipulated in PP 103 of 2015 concerning Ownership of Residential or Occupancy by Foreigners Domiciled in Indonesia. Article 26 is written that in order to encourage economic growth through investment it is necessary to make it easier for foreigners or foreign nationals (WNA) to have a residence or a house to live.

Foreigners who can own a residential or residential house are those who hold a residence permit in Indonesia in accordance with the provisions of laws and regulations. If the foreigner dies, the house or residence can be inherited. In the event that the heir is a foreigner, the heir must have a residence permit in Indonesia in accordance with the provisions of the laws and regulations, “wrote the same article amending article 2 of PP 103/2015 on land or apartment. Both cannot become property rights, but use rights or building use rights. “A residential house or a dwelling, either a single house or a flat unit, can be owned by foreigners to purchase a new unit or an old unit. Further provisions regarding the purchase of residential or residential houses are regulated by ministerial regulations (Article 5). Even though it is permitted, however, not all foreigners are free to live and own the system as written in Article 69. Instead, only foreigners who have an official immigration permit can own a condominium or house of residence. Foreigners who can own a residential or residential house are foreigners who have immigration documents in accordance with the provisions of laws and regulations. Furthermore, it was also emphasized that the ownership of a condominium or house to live by foreigners only has the status of use rights. Even foreigners are not simply freed to buy or own a flat or dwelling in Indonesia.

There are a number of restrictions that are applied, such as price, land area, and even the number of land parcels or apartment units. Ownership of residential or residential housing for foreigners as referred to in Article 71 is granted with the following limitations: minimum price; land area; number of land parcels or apartment units; and designation for houses or dwellings.

Further provisions regarding the procedures for granting and limiting the ownership of a residential or residential house by foreigners as referred to in Article 69 to Article 72 are regulated in a Ministerial Regulation. Furthermore, if a foreigner who owns a condominium or a dwelling in Indonesia with this right to use status dies, then the ownership of the SARUSUN can be inherited to the heirs. In the event that the heir as referred to in paragraph (2) is a foreigner, the heir must have immigration documents in accordance with the provisions of laws and regulations and the heir is obliged to choose the status of an Indonesian citizen within one year after the inheritance’s death so that the process is completed. And carried out immediately with consequences if not then the land could fall into state land.

CONCLUSION

If you look back at the problems that arose as a result of the creation of the Job Creation Law Number 11 of 2020 or Omnibus law, there is a need for a little improvement and forming an Investigation team due to legal problems that occur then can confuse the arrangement and it is assessed that the time period exceeds the limit of the principle of nationalism, why is that because If we look at the average life span of a person who is only 75-80 years old, so that this regulation should not be judged to ignore the principle of justice for the parties, especially for the community, whose land provision is for foreign workers as well as foreign investors and their workers through foreign parties as well.

REGULATIONS

Law Number 5 of 1960 Concerning Agrarian Principles
Law Number 11 of 2020 concerning Job Creation

Government Regulation Number 40 of 1996 concerning Business Use Rights, Building Use Rights and Land Use Rights
 Government Regulation No. 41/1996, concerning Ownership of Residential or Residential Homes by Foreigners Domiciled in Indonesia
 Government Regulation Number 103 of 2015 Ownership of Residential Homes by Foreigners domiciled in Indonesia.
 Government Regulation (PP) Number 18 of 2021 concerning Management Rights to Land, House Units
 Arrangement and Land Registration

REFERENCES

- Maria, S.W., & Sumardjono. (1997). Banking credit problems in relation to the enforcement of the underwriting law. *Journal of Law (IusQuiaIustum)*, 7(4), 85.
- Harsono, B. (2005). *Indonesian agrarian law history of the establishment of basic agrarian laws content and implementation*. Jakarta: Bridge.
- (2004). *Indonesian Agrarian Law, Association of Land Law Regulations*. Jakarta: Bridge.
- Chesterman, J., & Galligan, B. (1997). *Defining Australian citizenship: selected document*. Cambridge university press, Melbourne.
- Arba, H.M. (2015). *National agrarian law, Sinar Graphic*. Jakarta.
- Maria S.W., & Sumardjono. (2018). *Land Regulation and the Spirit of Agrarian Justice*. 2018 by STPN Press, Yogyakarta.
2007. *Alternative policies for regulating land and building rights for foreign citizens and foreign legal entities*. Compass Book, Jakarta.
2019. "Crucial issues in the land bill and recent developments in land law", Paper presented at the Lecturer Up-Grading event Law Land/Land in Indonesia, State Administration Law Division, Trisakti Faculty of Law, Jakarta.
- Bagus, P.W.I. (2003). *Law of the business of tourism*. Replica Aditama, Bandung.
- Mizuno, K., Motoko, S., Fujita, & Kawai, S. *Catastrophe and regeneration in indonesia's*.
- Kyoto, P. (2016). CSEAS Series on asian studies quoted from: I made pria dharsana. *Politics of land law in the investment sector*, 15(44), (Dissertation: University of Indonesia), 3.