

Safety and Security of the Environment for Flat Dwellers on the Granting of Building Rights Title (HGB) on Management Rights (HPL) for 80 Years

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Abstract

The development of high-rise apartment buildings is an alternative solution to meet the housing and settlement needs. After the enactment of the Job Creation Law (UUCK), the Government issued Regulation No. 18 of 2021 concerning Management Rights, Land Rights, High-rise Apartment Units, and Land Registration. In this regulation, the period of Building Use Rights (HGB) over Management Rights (HPL) can be granted for 80 (eighty) years for the construction of high-rise apartments. This study was conducted to determine whether granting HGB over HPL for 80 (eighty) years is appropriate to be implemented and whether it potentially threatens the safety and environmental security of the high-rise apartment residents. The study results show that based on the prevailing regulations, granting HGB over HPL for 80 (eighty) years is appropriate because there is periodic inspection of the feasibility of the function every 5 (five) years as a requirement for certificate of feasibility of function (SLF) extension. However, in terms of building reliability, granting HGB over HPL for high-rise apartments for 80 (eighty) years still potentially poses a threat to the safety and environmental security of the residents because the building's capability will decrease in strength that affects the building's reliability. Another risk arises because the sanctions given for the negligence of periodic inspections on the building's reliability in the process of extending SLF are only in the form of administrative sanctions, so more severe sanctions such as criminal sanctions need to be imposed on violators.

Keywords: *Building Use Rights (HGB), Building's Reliability, High-rise Apartments, Environmental Safety and Security.*



A. INTRODUCTION

The need for adequate and affordable housing in Indonesia is still a problem and the government's solution is a housing program, especially flats. Building flats is an alternative solution to the problem of housing and settlement needs, especially in urban areas with an increasing population. The aim of building flats as written in Article 3 of Law Number 20 of 2011 concerning Flats is to maximize the efficiency and effectiveness of space and land use, as well as providing green open space in urban areas as an effort to create complete, harmonious and balanced residential areas so that in accordance with the concept of sustainable and environmentally sound development including providing legal certainty regarding the provision, occupancy, management and ownership of flats.

After the ratification of the Job Creation Law (UUCK), the Government issued several derivative regulations, one of which was related to Management Rights and Land Rights, namely Government Regulation no. 18 of 2021 concerning Management Rights, Land Rights, Flats and Land Registration (hereinafter referred to as PP 18/2021). It is hoped that this regulation can provide legal certainty, especially regarding Land Rights, in order to realize the government's efforts to encourage the creation of an investment climate as one of the steps in increasing equitable economic growth through guaranteeing Land Rights.

In Article 41 paragraph (3) letter b PP 18/2021 regulates the validity period or term of land used for flats, namely the validity period of Building Use Rights (HGB) standing on Land Management Rights (HPL) can be granted at the same time as extension and renewal, or in other words, the validity period of HGB above HPL for land used as flats can be immediately granted for 80 (eighty) years provided that it has a Certificate of Functionality (SLF). Providing a period for granting HGB of 1 (one) cycle or up to 80 (eighty) years is the government's effort to provide legal certainty and support the investment climate for property business actors, especially apartments.

Based on the Regulation of the Minister of Public Works and Public Housing of the Republic of Indonesia Number 27/PRT/M/2018 of 2018 concerning Certificates of Functional Worthiness of Buildings, it is explained that, if a building can be used, it must meet the requirements for functional suitability of the building in the form of a Certificate of Functional Worthiness (SLF) issued by the Regional Government through the Technical Service which is in charge of and can test the appropriateness of the function of a building as stated in Article 41 paragraph (3) letter a PP 18/2021.

SLF is an instrument that can guarantee aspects of safety, security, health, comfort and ease of use for residents, which is one of the important aspects in creating a good and healthy living environment in accordance with Article 28 letter (h) of the Constitution of the Republic Indonesia 1945 paragraph (1) which explains that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and the right to receive health services. However, in Indonesia, environmental management efforts are progressing more slowly than the rate of damage, including efforts to overcome environmental damage and repair it, this indicates that environmental issues are not at the center of development considerations in Indonesia. Providing a HGB period above the HPL for the construction of flats of 80 (eighty) years will have several consequences that must be observed and anticipated as a form of legal protection, especially for residents, especially regarding the reliability of flat buildings to ensure safety, security, health and comfort. and ease of use for residents.

Legal protection should provide a legal instrument that is both preventive and repressive, created to be able to provide legal protection to provide order, justice, benefit and also legal certainty to legal subjects. Satjipto Raharjo explained that legal protection is an effort to fulfill human rights that are harmed by other people so that protection efforts are aimed at certain subjects so that they can enjoy all their rights

which are accommodated by applicable law. Legal protection for consumers (the public) is a necessity provided by business actors and the government because it is regulated in Law Number 8 of 1999 concerning Consumer Protection. Based on the explanation above, this research aims to find out the following things:

1. Is PP 18/2021 which regulates the granting period for HGB of 80 (eighty) years appropriate to implement?
2. Do the rules for granting, extending and renewing (1 cycle) or 80 (eighty) years have the potential to threaten aspects of the safety and security of the living environment of apartment residents?

B. METHOD

This research uses a statutory approach or statue approach so that it uses statutory legal materials as a basis for conducting research. This type of research includes normative legal research by examining library materials, especially legislation. Information gathering is carried out through literature study by reviewing literature and other relevant information materials including applicable laws and regulations and legal theories.

C. RESULTS AND DISCUSSION

Based on Article 1 of Law Number 20 of 2011 concerning Flats, what is meant by flats is a multi-storey building built in an environment which is divided into parts which are structured functionally, both in horizontal and vertical directions and are units each of which can be owned and used separately, especially for residential premises equipped with shared parts, shared objects and shared land. Differentiation from flats can also be called apartments and condominiums. Apartments are jointly owned buildings consisting of several residential units and generally target middle to upper class consumers, while condominiums are buildings and areas that are jointly owned and controlled in multi-storey buildings.

Based on Article 157 paragraph (3) and Article 158 paragraph (1) & (2) Government Regulation Number 16 of 2021 concerning Implementing Regulations of Law Number 28 of 2002 concerning Buildings, one of the things that is meant by building maintenance and/or maintenance is considering the age of the building is the period of time that the building still fulfills the function and reliability of the building in accordance with the established standards, namely 50 (fifty) years. Various types of structures have been issued by ISO 2394 with explanations in the following table:

Table. 1 ISO 2394 Structure Type

No	Structure Type	Specific Service Life
1	Temporary Structure	15 years
2	Structures with replaceable components (Example: Gantry Beam, <i>Bearings</i>)	25 years

3	Buildings and Structures for Public Use	50 years
4	Building Structures for Special Purposes (Examples: Monumental Buildings, Large Bridges, and other important buildings)	100 Years or more

Source: ISO 2394 (ISO, 1998)

If a building is more than 30 (thirty) years old, it is likely that some parts of the structure will have decreased in strength. The age of the building will be a guide for determining the technical components of the building, which includes structural and architectural components so that the specifications have been determined in order to achieve the quality of the building after the expected age.

Based on the foregoing, it can be understood that the reliability standard for apartment buildings is 50 (fifty) years and it is necessary to carry out regular checks on functional suitability every 5 (five) years as a condition for extending the SLF as long as the building is still in existence and in use. This means that potential threats to safety and the environment for apartment residents can be anticipated so that the granting of Building Use Rights (HGB) over Management Rights for 1 (one) cycle or 80 (eighty) is appropriate when viewed from the aspect of regulatory suitability, however There are still risks lurking because the sanctions given for failure to periodically check the reliability of apartment buildings in the SLF extension process are only in the form of administrative sanctions which are deemed to lack coercive firmness.

The next discussion can be examined from the perspective of building reliability. The age of a building is generally estimated to be up to 50 (fifty) years and in the first 30 (thirty) years it experiences a decline in strength which affects the reliability of the building, so that if the age of the building or flat is projected to be used for 80 (eighty) years then it can be ensured experiencing a decline in quality both in terms of the strength of the building and its living environment. Providing a HGB period above the HPL for flats of 80 (eighty) years has the potential to pose a threat to the safety and environment of the flat's residents so that other measures are needed to ensure that this threat can be minimized apart from the regulation of extending SLF every 5 (five) years with without reducing the aim of granting HGB above HPL for flats of 80 (eighty), namely ease of investment and providing legal certainty.

D. CONCLUSION

Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration has regulated the granting of HGB above HPL for 1 (one) cycle or 80 (eighty) years as the government's effort to provide guarantees of legal certainty and ease of investment according to the objectives of UUCK. Based on the applicable regulations, this is appropriate because it is necessary to carry out regular checks on the suitability of the function every 5 (five) years as a condition for extending the SLF. However, there is still a risk because the sanctions given for failure to periodically check the reliability of apartment buildings in the SLF extension process are only in the form of administrative sanctions.

Buildings aged up to 80 (eighty) years have experienced a decline in quality so that granting a HGB period above an HPL of 80 (eighty) years still has the potential to pose a threat to the safety and security of the environment for apartment residents considering that the reliability of the building is decreasing over time. . Apart from that, a supervisory instrument is needed by the regional government to ensure that each building has carried out regular checks on the reliability of the apartment buildings and the need to apply stricter sanctions such as criminal sanctions against those who violate them.

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