



Disharmony of Foreign Citizens' Ownership Rights on Flat Units According To Law Number 11 of 2020 Concerning Job Creation

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ABSTRACT

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Public needs related to residents are increasing due to increasing population growth. However, the available land as a place to live is increasingly limited, giving rise to a multi-storey building business called flats which is useful in reducing and making land use more effective. Utilization of land isn't only for Indonesian citizens but also foreigners, according to the Basic Agrarian Law, foreigners can only have the status of Use Rights in ownership of flats, while in the Job Creation Law it is possible to have ownership rights with Building Rights, resulting in overlapping rules and potential legal uncertainty for foreigners. Therefore, the government needs to provide an explanation regarding the implementation or revision procedure, especially in the ownership of flats. The study was conducted to describe the concept of ownership rights for foreigners in Indonesia and the disharmony of land ownership for foreigners in Indonesia according to the Job Creation Law, Agrarian Law and other related regulations, through qualitative research methods, namely normative juridical with a statute approach and a conceptual approach.

Keywords:

Disharmony, Foreigners, Flats

I. INTRODUCTION

The development of globalization provides new innovations in the business sector, especially related to housing. Community needs related to housing are increasing over time due to increasing population growth, but the available land as a place to live is increasingly limited. This gave rise to a multi-storey building business called flats as a place for people to live. Through flats, it will be useful to reduce and streamline the use of land as a place to live, as well as bring infrastructure facilities closer to the city by creating open spaces (Kuswahyono, 2004). The use of land as flats is an effort in structuring regional or city spatial planning through spatial planning, spatial use and spatial control.

Land use is needed not only for Indonesian Citizens (hereinafter referred to as WNI) but also for Foreign Citizens (hereinafter referred to as WNA) and foreign legal entities that have certain interests such as staying for a certain period of time due to business activities or work. Foreigners who are married to Indonesian citizens in Indonesia. This causes every foreigner domiciled in Indonesia to be obedient and comply

with the provisions of the laws and regulations in Indonesia under the principle of nationality in Law Number 5 of 1960 concerning Agrarian Principles (hereinafter referred to as UUPA). According to Article 9 paragraph (1) of the UUPA, it is stated that only Indonesian citizens can have full relations with the earth, water and space within the provisions of all natural resources in Indonesia as national assets, which are controlled by the state as an organization of power for the entire people. In addition, Article 21 paragraph (1) of the UUPA, it is stated that only Indonesian citizens can have property rights, it can be seen that foreigners have certain limits regarding ownership of land rights in Indonesia, because only Indonesian citizens can control all of the national natural wealth. including land rights, thus explicitly stating that foreigners are prohibited from having land rights.

A Certificate of Ownership of Flats Units (hereinafter referred to as HMSRS), which includes joint ownership rights to shared areas, land, and things that are one unit and cannot be separated from that ownership, can be used to prove ownership of flats for foreigners living in Indonesia (Harsono, 2007). According to Article 144 paragraph (1) Chapter VIII (eight) concerning Land Procurement Part Four concerning Land Paragraph 2 concerning Strengthening Management Rights, Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law) it is stated that property rights to housing units the arrangement can be given to Indonesian citizens, Indonesian legal entities,

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foreign legal entities, representatives of foreign countries, and foreigners. Furthermore, in Article 145 of the Copyright Act, it is stated that the provisions for granting ownership rights to flats are flats that can be built on land with Building Use Rights (hereinafter referred to as HGB) or Use Rights on state land or land with management rights with extension and renewal of rights after getting a function-worthy certificate. Based on this, it can be seen that according to the Employment Copyright Law, the government provides an opportunity for foreigners to be able to own ownership rights to flats with HGB or Use Rights which can be extended after a certificate of proper function is obtained.

In this regard, Article 36 of the UUPA does not state that foreigners can have Right to Build (HGB), but Article 42 of the UUPA then states that foreigners are entitled to have the Right of Use. This is also related to Article 4 paragraph (1) letter b of the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Head of the National Land Agency Number 29 of 2016 concerning Procedures for Granting, Release, or Transfer of Rights to Ownership of Residential or Occupant Houses by Foreigners Domiciled in Indonesia (hereinafter referred to as PKBPN Number 29 of 2016), foreigners can have the right to a condominium building built on a land parcel with a Right to Use or from a change in the Ownership of the Flat. In addition, according to Article 4 letter b of Government Regulation Number 103 of 2015 concerning Ownership of Residential Houses or Occupancy by Foreigners Domiciled in Indonesia (hereinafter referred to as PP Number 103 of 2015) it is stated that foreigners can have ownership rights to flats built in the field of Right of Use land. Based on this, there is disharmony between the Job Creation Act and the UUPA as well as the laws and regulations below it regarding the status of foreign property rights in the ownership of flats, causing disharmony and overlapping rules, which will potentially increase conflicts in agrarian affairs. Some of the legal implications in the ownership status of foreigners on property rights to flat units are, first, related to the concept of ownership rights for foreigners in Indonesia, as well as a disharmony of land ownership for foreigners in Indonesia according to the Job Creation Law, UUPA and other related regulations.

II. LEGAL ISSUES

1. What is the concept of ownership rights for foreigners in Indonesia?
2. What is the disharmony of foreign citizens' ownership rights on flat units according to Law Number 11 of 2020 concerning Job Creation?

III. LITERATURE REVIEW

Concept of Ownership Rights for Foreigners in Indonesia

According to the Titik Triwulan Tutik, foreigners are people who are domiciled and live in a certain country but are not citizens of the country they live in (Tutik, 2008).

According to Article 1 point 1 PP Number 103 of 2015 in conjunction with Article 1 number 2 of PKBPN Number 29 of 2016 it is stated that foreigners or foreigners are people who are not Indonesian citizens whose existence provides benefits, conducts business, works, or invests in Indonesia. According to Article 1 point 9 of Law Number 6 of 2011 concerning Immigration (hereinafter referred to as the Immigration Law) it is stated that foreigners are people who are not Indonesian citizens. In addition, according to Hartono Hadisoeparto, as a foreigner there is legal protection based on the domicile of the foreigner, in which :

1. Negative protection, protection for foreigners from being able to not follow an obligation that applies nationally in the country they live in, for example: the obligation to join the military in South Korea for its residents.
2. Positive protection, protection for foreigners against certain legal actions that are protected and legally guaranteed by the country they live in, for example: According to the UUPA, foreigners can have use rights and lease rights related to land rights (Hadisoeparto, 2011).

Based on this, it can be seen that foreigners are all people who are domiciled temporarily or permanently in a certain country in the context of doing business, working, or investing.

Through positive protection, foreigners residing in Indonesia can have legal certainty and guarantee legal protection against legal acts committed when foreigners are in Indonesia. However, this is limited to certain legal actions, such as in agrarian law, foreigners are only limited to having usufructuary rights and rental rights, foreigners who live can only be citizens and cannot interfere in Indonesian government affairs. Moreover, in trading activities foreigners can invest, invest, or open a business in Indonesia, but are limited by the provisions of the prevailing laws and regulations in Indonesia such as the Law on Investment and the Law on Monopoly and Business Competition.

According to Article 8 paragraph (2) of the Immigration Law, it is stated that every foreigner who enters Indonesia must have a valid and valid visa, which is then categorized as in Article 34 of the Immigration Law, which consists of a visit visa, diplomatic visa, service visa, and limited stay visa. The allocation of diplomatic visas as stipulated in Article 35 of the Immigration Law is specifically for foreigners carrying out diplomatic duties in Indonesia, while service visas according to Article 36 of the Immigration Law are intended for foreigners who carry out official duties that are not diplomatic but are related to foreign governments in their countries or related to international organizations. Furthermore, a visit visa according to Article 38 of the Immigration Law is intended for foreigners who carry out visits related to government, education, social, culture, business, family, business, journalism, or visits to continue

their journey to other countries, while a limited stay visa according to Article 39 of the Immigration Law is intended for foreigners who have certain jobs in Indonesia, as well as foreigners who are legally married to Indonesian citizens. The purpose of the foreigner's stay in Indonesia will be made known through this visa category, enabling the immigration official, following Article 44 paragraph (2) of the Immigration Law, to issue an entry sign for foreigners who have complied with the requirements and obtained a residence permit in Indonesia.

As in Article 1 number 19 of the Immigration Law, an entry sign is a sign or stamp affixed to travel documents for Indonesian citizens or foreigners by immigration officials which is a sign that the Indonesian citizen or foreign national has entered the territory of Indonesia. Furthermore, foreigners with certain visa categories apply for a residence permit as stipulated in Article 48 paragraph (1) of the Immigration Law, is that every foreigner residing in the territory of Indonesia is required to have a residence permit. According to Article 1 number 21 of the Immigration Law, it is stated that a residence permit is a permit granted to foreigners by immigration officials to be able to reside in Indonesian territory. The categories of stay permits as referred to in Article 48 paragraph (3) of the Immigration Law are diplomatic residence permits, official residence permits, visit stay permits, limited stay permits, and permanent residence permits, which will be granted per the visas held by foreigners. Diplomatic stay permits and official stay permits are granted to foreigners via diplomatic and service visas, visit stay permits are granted to foreigners with visit visas, limited stay permits are granted to foreigners with limited stay visas, while permanent residence permits are as stipulated in Article 1 number 23 of the Immigration Law. Article 54 of the Immigration Law states that it can be granted to foreigners with limited stay permits, mixed marriages, family members of foreigners with permanent residence permits, or ex-citizens and ex-children of Indonesian dual citizenship.

According to Herlin Wijayanti, the entry of foreigners into Indonesia provides benefits, especially in the development of the national economy, especially through the provision of taxes for foreigners which are imposed every 3 (three) years based on the condition of foreigners at that time, being born in Indonesia, residing in Indonesia or when an Indonesian citizen obtain foreign citizenship (Wijayati, 2011). This can mean that foreigners cannot immediately take all legal actions when occupying a country, foreigners have boundaries of rights and obligations under the laws and regulations in the country where they are domiciled thus land rights in Indonesia are as stated in Article 2 paragraph (1) UUPA related to all natural resources in Indonesia controlled by the state as an organization of people's power, not shifting to foreign powers. In addition, according to Article 21 paragraph (1) of the UUPA which states that only Indonesian

citizens can have property rights, it means that property rights have the strongest and fullest nature in ownership of land, so only Indonesian citizens who have a close relationship with land ownership in Indonesia can have Ownership Rights on land and other land rights such as HGB, Cultivation Rights, Use Rights, Lease Rights, and others.

According to Maria S.W, usufructuary rights come from customary law which is principally configured through the UUPA and adapted to the dynamics of community development to anticipate transactions in the economy (Sumardjono, 2007). Ownership of foreigners is regulated as stipulated in Article 41 of the UUPA regarding the Right to Use, the right to use the proceeds from land controlled by the state or land owned by another person, by granting the authority and obligations of the competent authority or through an agreement with the land owner regarding all matters concerning the right to use the land product as long as it is not a lease agreement or land management agreement. Furthermore, Article 42 of the UUPA states that those who can have the Right to Use are Indonesian citizens, foreigners domiciled in Indonesia, legal entities established under Indonesian law and domiciled in Indonesia, as well as foreign legal entities having representatives in Indonesia. In connection with this, according to Article 45 of the UUPA, it is stated that foreigners who are domiciled in Indonesia (WNA) also have the authority related to Lease Rights as described in Article 44 of the UUPA, using land belonging to other people for building purposes, by paying rent to the land owner. Based on the explanation of the article, the government has given authority to foreigners through the UUPA in the form of the Right to Use and Right to Rent because it is a limited authority for the owner.

According to Article 3 paragraph (1) of the PKBPN Number 29 of 2016, it is stated that foreigners who have obtained a residence permit in Indonesia can have a house for residence with the status of Right of Use. Furthermore, in Article 4 of PKBPN Number 29 of 2016, it is determined regarding houses that can be lived in by foreigners, that is a single house on land with the status of Right to Use or a single house with the status of Right of Use on Ownership that is controlled because of an agreement for granting of Right of Use over Right of Ownership carried out by the Land Deed Maker Official (hereinafter referred to as PPAT), as well as condominium units built on land with the status of Right to Use or condominium units derived from changes in Ownership Rights to Flats. In addition, according to Article 49 paragraph (2) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Registration (hereinafter referred to as PP Number 18 of 2021), it is stated that the Use of Rights can be granted to foreigners. Based on this, it can be seen that according to the UUPA and other regulations under it, the ownership of foreigners is limited to the Right to Use and the Right to Rent. Restrictions are made because the government provides

reasonable opportunities regarding the authority of foreigners in land ownership, this can mean that the government provides support and protection in terms of meeting the needs of foreigners while living in Indonesia.

IV. RESEARCH METHOD

A legal-statutory approach and a contextual approach are both used in the normative juridical research method. Primary legal resources, secondary legal materials, and non-legal materials are all used in the analysis of the legal materials, which are compiled using the literature review approach and examined using the deductive analysis method.

V. DISCUSSION

Through rules of laws and regulations, it can be seen that the government has provided protection and opportunities for foreigners to stay for a certain period or settle in Indonesia with land rights ownership which is limited to Use Rights and Lease Rights. Based on the principle of nationality, the authority of foreign nationals over the ownership of rights to land or buildings on it must be under the provisions of the legislation, one of which is related to the authority to own ownership of the Flat Units. The definition of flats according to Law Number 20 of 2011 concerning Flats (hereinafter referred to as the Flats Law) Article 1 number 1 states that flats are high-rise buildings that are built in an environment that is divided into several functionally structured parts with horizontal and vertical direction in which units can be owned and used separately, especially for residential areas with shared parts, shared objects and shared land. Moreover, according to Article 1 point 3 of PP Number 103 of 2015, it is stated that the Flat Unit (hereinafter referred to as the condominium unit) is an apartment unit in a residential area that is used separately and has connecting facilities to public roads.

Based on this, it can be seen that the condominium unit is an accommodation or a residence that is built with a multi-storey building that is used separately, but the ownership of parts, objects and land is jointly owned. It can be interpreted that HMSRS is individual ownership limited to the condominium owned, while land and buildings are joint property. This is as in Article 46 of the Flats Law which states that HMSRS is a separate individual property right with joint rights to shared parts, objects, and land. It is hoped that the Job Creation Law will help the Indonesian economy grow as a result of foreign investment because it will have a positive effect, including growing the labor force, raising the nation's foreign exchange, which also raises state tax revenue. and expanding knowledge and technology (Kurniati, 2016). In addition, according to Article 143 of the Job Creation Law, it is stated that HMSRS is a separate individual condominium unit ownership right with joint rights to shared parts, objects and land. The concept of HMSRS is ownership of objects

owned by more than one person, called joint ownership through the form of ownership, as below :

- a) Bound ownership, which is an agreement prior to the ownership process of HMSRS, so that the parties cannot arbitrarily transfer ownership rights without the consent of each party.
- b) Free ownership, the process of ownership of HMSRS does not need a prior agreement, then in HMSRS ownership, it is stated that joint rights become owners to be used together (Hutagalung, 1998).

The condominium unit is divided into a flat rental system, simple flats for rent (hereinafter referred to as Rusunawa), and a direct purchase system, also flats with ownership (hereinafter referred to as Rusunami) (Alif, 2009). Andy Hartanto stated that condominium units are divided into flats as stipulated in Article 1 Angla 7 of the Flats Law, apartments (usually owned by the upper-middle-class people), and condominiums (shared ownership for the regions) (Hartanto, 2013). According to Wibowo Tunardy, flats are divided into residential flats (for housing), non-residential flats (for places of business or social activities), and mixed flats (Janah, 2016). According to the Flats Law, condominium units are divided into general flats, special flats, state flats and commercial flats. Article 1 number 7 of the Flats Law states that general flats are prioritized for low-income people, Article 1 number 8 of the Flats Law states that special flats are carried out to meet the needs of special communities, Article 1 number 9 of the Flats Law is related to state flats as a place to live. only officials and/or civil servants remain, while Article 1 number 10 of the Flats Law relates to commercial flats, in which flats that are carried out for profit.

Furthermore, according to Article 17 of the Flats Law, it is stated that the condominium unit can be built on land with property rights, HGB, use rights on state land or land use rights on management rights. Article 45 of the Flats Law also stipulates that the control of condominium units in general and commercial flats is carried out with ownership rights or rental rights, special flats are carried out by borrow-use or rental rights, while state flats are carried out by borrow-to-use, rental rights, or rent buy. In connection with this, it can be seen that the legal subjects in the HMSRS are :

1. Owner, the party who owns the condominium unit.
2. Occupants, those who occupy the condominium unit as a place of residence (as owner or non-owner).
3. Manager, the legal entity that manages the condominium unit.
4. Association of condominium owners and residents, which is associations for parties who are condominium owners and residents of condominium units (Sihombing, 2005).

In comparison to Singapore, where there are limitations on the types of land rights that can be purchased

by foreigners, foreigners are also not permitted to purchase public flats, there are no restrictions on the types of land rights for foreigners to purchase condominiums even for an unlimited amount of time, because it is a government of Singapore purchase for Singaporeans' housing (Karenina & Setyono, 2021). According to Article 17 of the Flats Law, it is stated that condominium units can be built on land with Ownership Rights, HGB, Use Rights on state land or Use Rights on management rights, therefore Article 47 of the Flats Law regulates the proof of ownership of the condominium units built under Article 17 The Law on Flats issued with a Certificate of Ownership of the condominium unit (hereinafter referred to as SHM of the condominium unit) by the District Land Office. Through the issuance of the condominium unit, it includes a copy of the land book and a letter of measurement for the rights to the shared land, a picture of the floor plan of the condominium owned by the condominium unit, and the amount of the share of the rights to the shares, objects and land together. Apart from SHM condominium units, proof of ownership of condominium units according to Article 48 of the Flats Law is also in the form of a Certificate of Ownership of Condominium Buildings, proof of condominium units on state or regional property in the form of land or waqf land carried out under lease, issued by the Regency technical agency or City. Through the issuance of the Certificate of Ownership of the Condominium Building, it includes a copy of the building book, a copy of the lease agreement on the land, a picture of the floor plan of the condominium owned by the condominium and the amount of the right to share and shared objects.

The HMSRS ownership process according to the Flats Law can be categorized into two, before construction is complete and after construction is complete. According to Article 43 of the Flats Law, it is stated that the buying and selling process for condominium units before the construction is completed is carried out through a Sale and Purchase Binding Agreement made before a Notary in terms of fulfilling ownership status, IMB ownership, infrastructure, facilities and public utilities, construction of at least 20% (twenty percent) as well as other agreed matters. Meanwhile, Article 44 of the Flats Law, it is stated that the sale and purchase process for condominium units after the construction is completed, if a Certificate of Appropriate Function and SHM or Building Ownership Certificate has been issued, then a Sale and Purchase Deed is made before PPAT if it has fulfilled all the requirements and the status of the condominium ownership.

The condominium unit has a different ownership system because it is individual but also includes joint ownership, in which individual ownership because the condominium unit ownership is separate, but ownership of parts, objects, and land is joint property. The concept of condominium which is different from home ownership in

general is called strata title (Wafi, et al., 2016). This can be seen from the certificates of ownership that are issued. In general, the ownership of houses is issued with a Certificate of Ownership which is valid onwards and includes detailed ownership rights of an object, while for condominium units, SHM of condominium units are issued and Certificates of Ownership of Buildings of condominiums are issued which are only valid for a certain period and It includes ownership for the condominium unit regarding individual ownership and the number of objects, parts and land that are jointly owned. Thus, the applicable principles as stipulated in Article 1 point 1 of the Flats Law are the horizontal separation principle and the vertical separation principle (Roestamy, 2016). Horizontal separation means that ownership of objects on land can be separated from ownership of the land on which the objects are located, while vertical separation means that ownership of objects on land cannot be separated from ownership of the land on which the objects are located (Gaol, 2018). It can be seen that HMSRS has its own character from the concepts, procedures, and ownership certificates issued, and the principles that apply are neither completely horizontal nor fully vertical because the ownership of flats is individual while ownership is not separate from joint ownership.

Regarding the ownership of foreigners over condominium units, Article 2 of PP Number 103 of 2015 it is stated that foreigners can own a house for residence with the Right of Use, as long as the foreigner has obtained a residence permit in Indonesia. According to Article 144 paragraph (1) letter c of the Job Creation Law, it is also stated that HMSRS can be granted to foreigners. Furthermore, Article 4 of PP Number 103 of 2015 it is stated that foreigners can have a place to live or a house with the following categories:

- a) Single house on land with Right of Use or on land with Right of Use on Ownership based on an agreement made with the PPAT Deed.
- b) The condominium unit is built on the Right of Use land plot.

Article 3 of PKBPN Number 29 of 2016 also states that foreigners who already hold a residence permit in Indonesia can have a house for residence with a Right of Use, with the category of the house as in Article 4 of PKBPN Number 29 of 2016 which is a single house on land with a Right of Use, on the Right of Use over the Right of Ownership based on the agreement made with the Deed of PPAT, as well as on the land with the Right of Use derived from the change in HMSRS, besides that one can also own a house with the category of condominium building built on a parcel of land with the Right to Use or derived from changes to the HMSRS. In connection with this, according to Article 2 P according to Article 49 paragraph (2) PP Number 18 of 2021 has confirmed that the subject of the Right to Use is one of foreigners. Article 67 of PP Number 18 of 2021 also confirms that HMSRS can be given one of them to foreigners who have a residence permit in Indonesia, if the Indonesian

citizen marries a foreigner, according to Article 70 of PP Number 18 of 2021 it is stated that Indonesian citizens can still have the right to land that the same as Indonesian citizens, as long as the land rights are not joint property. The categories of condominium units that foreigners can own according to Government Regulation No. 18 of 2021 as stipulated in Article 71 are:

1. Treaded house above ground:
 - a) Right of Use;
 - b) Right of Use over Ownership Rights based on the grant agreement with the PPAT deed;
 - c) Management Rights based on land utilization agreements with Management Rights holders;
2. Flats built on plots of land:
 - a) Right of Use or HGB on state land;
 - b) Right of Use or HGB on land with Management Rights;
 - c) Right of Use or HGB on Right of Ownership land;

Based on this, it can be seen that with regard to foreign ownership of land rights in Indonesia, two conditions must be met, namely the first subjective requirements related to the position of foreigners in Indonesia, which can be seen through the immigration process for foreigners in Indonesia, starting from the visa used, residence permit in Indonesia, as well as the length of time the foreigner has lived in Indonesia. The second is related to the objective requirements, namely after the foreigner has fulfilled the immigration requirements, the foreigner can own a house or condominium unit as a place to live, according to the legal status of the land where the residence is built, but as stipulated in the laws and regulations, foreigners can only have a legal status of land rights in the form of land rights. Use or Lease Rights. If this is related to the principles in the UUPA, the ownership of foreigners in HMSRS is included in several principles, in the principle of nationality it is intended that God has given a gift to Indonesia over a large area so that everyone has the same land rights and can enjoy any resources that are available contained in it (Wardhani, 2020). This means that all people within the territory of Indonesia (WNI) have the opportunity or the same rights in ownership of land rights and other resources, except for foreigners.

Exceptions for foreigners are not immediately carried out, only restrictions are set on certain rights and obligations in the policies of the laws and regulations so that if foreigners want to stay for a certain period of time or stay in Indonesia, they must comply with all regulations in Indonesia. Furthermore, restrictions on foreigners are caused because Indonesian citizens have a close relationship with Indonesian land. Human relations with land embody rights and obligations for the prosperity of oneself and others (Noor, 2006). This means that the relationship between Indonesian citizens and land in Indonesia is based on historical factors, namely, land in Indonesia is a place and territory for

Indonesian citizens to fight for Indonesia, so land in Indonesian territory is a place where Indonesian citizens live.

The second principle is related to the State's Right to Control, according to Notonegoro, the purpose of the state in controlling land is intended as a representation and personification of the community (Notonegoro, 1984). The relationship between the state and the earth, land, water and all the natural resources contained is not individual ownership or state ownership, but the state is a representation of the people in terms of regulating the allocation, use, ownership of land, and is responsible for land rights, with the concept that The state cannot be separated from its relationship with society. The last is the principle of social function on land as stated in Article 6 of the UUPA which states that all land rights have a social function. This means that land rights are not absolute, thereby land as a social function is to regulate the balance of land rights for personal and social interests proportionally.

In connection with this principle, in Article 42 of the UUPA, Article 144 paragraph (1) of the Job Creation Law, Article 49 paragraph (2) of Government Regulation No. 18 of 2021, Article 3 of PKBPN No. 29 of 2016 and Article 2 of Government Regulation No. 103 of 2015, it has been approved. it is known that foreigners are entitled to the ownership of HMSRS with the status of Right of Use. However, condominium units that can be built and owned have different categories in the rules such that it can potentially lead to overlapping regulations, which can lead to agrarian conflicts in terms of HMSRS ownership for foreigners established on HGB land which can then violate the use rights status for foreigners in the UUPA. If it is legally constructed, foreigners are not included in the party that can be granted HGB as stipulated in Article 36 of the UUPA, this is because the HGB is the ownership of the building and its land. The HGB holder in the HMSRS is a developer or development company, as the ownership of HMSRS in the condominium SHM is not only related to the ownership of the condominium unit, but has determined the share, object, and shared land. So, consequently, the condominium owner must fulfill the requirements as the holder of land rights as well (Mahadewi, 2019). Furthermore, regarding the ownership status of land rights for HMSRS, it is still floating, and does not fully adhere to the principle of horizontal separation or fully the principle of vertical separation, while the HGB does not apply the principle of horizontal separation so that if a foreigner wants to take a condominium unit, it is necessary to clarify the status of the Right to Use or to transfer the status of the HGB to the Right to Use. first. Based on this, the government needs to provide explanations both in policies and procedures for implementing HMSRS and standardization of ownership for foreigners, this can affect the difference in ownership status of foreigners in Indonesia according to the UUPA and the Job Creation Law, thus potentially creating legal uncertainty for foreigners, while

HMSRS For foreigners, it can increase investment and support the country's economy.

VI. CONCLUSION

The different arrangements in the Job Creation Law and the UUPA cause overlapping rules that can result in legal uncertainty regarding the ownership of foreigners over HMSRS, in the classification of subjective requirements for foreigners, it can be seen from the visa or residence permit of foreigners in Indonesia which must comply with statutory provisions, especially immigration regulations, and objective requirements for foreigners can be seen from the foreigner's ownership status of land rights, especially in the HMSRS. Suggestions from this discussion are looking at the overlapping policies, there needs to be a revision or further explanation regarding the ownership status of foreigners in the HMSRS, the government needs to provide an explanation regarding the implementation procedures or revisions in standardizing the ownership of foreigners to realize legal certainty and protection for foreigners living in Indonesia.

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