Ownership Of Flat Units For Foreigners In The Agrarian Legal Order

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Abstract

The aim of the research is to describe apartment unit associated with investment in the property sector fo ownership of apartment units for foreign citizens in Indonesia by paying attention to land rights in Indonesia, so that there is no disharmony with positiv law in Indonesia. The research method uses a normativ juridical legal research type. The approaches used include the statutory approach, conceptual approach analytical approach. An analytical approach is carried out by analyzing legal material to find out what i contained in the terms used in a legal regulation conceptually, as well as understanding the regulation in practice. The results of the research are that in th UUPA there are several types of land rights, namely (1) Ownership rights; (2) Cultivation rights; (3 Building use rights; (4) Use rights; (5) Rental rights (6) The right to open land; (7) The right to collect fores products; (8) Other rights which are not included in th rights mentioned above will be determined by law a well as temporary rights as stated in Article 53 of th UUPA. After the enactment of Law 11/2020, th regulation of ownership of condominium units fo foreigners is specifically regulated in Part Four of Land Paragraph 3 Condominium Units for Foreigners, a intended in the provisions of Articles 143 to 145. In it development to implement Constitutional Cour Decision Number 91/PUU-XVIII2020, improvement need to be made by replacing Law Number 11 of 2020 concerning Job Creation (Letter f, Considering section Law Number 6 of 2023), as promulgated in Law Number 6 of 2023 concerning Determination o Regulations The Government Substitutes Law Number 2 of 2022 concerning Job Creation into Law (hereinafte referred to as Law 6/2023)

I. Introduction

H The need for housing, especially in big cities in Indonesia, is one of the problems that the Indonesian Government must address and find a solution for. Limited land, influenced by the increasing population, urbanization/transmigration of people, economic centralization has made flats an option for residence other than landed houses (also related to simple houses which cannot be built in the form of a single house or row of houses) with pay attention to an area and settlement. Previously, the government had attempted to develop housing, especially in Jakarta, but in the end development was not balanced with the addition of people, making housing construction difficult (Center for Legal Research and Development, Faculty of Law, Tarumanagara University).

The provisions of the statutory regulations governing condominiums were first regulated as regulated in Law Number 16 of 1985 concerning Condominiums which has been amended as regulated in Law Number 20 of 2011 concerning Condominiums (hereinafter referred to as the Condominium Law). The definition of an apartment is: a multi-storey building built in an environment that is divided into parts that are structured functionally, both in horizontal and vertical directions and are units that can each be owned and used separately, especially for a residential place equipped with shared parts, shared objects and shared land (Article 1 number 4, Law Number 20 of 2011).

Based on this understanding, it can be analyzed that the elements of an apartment include: (1) Built on more than one floor; (2) In an environment; (3) Functionally structured parts in horizontal and vertical directions; (4) Units that can each be owned and used separately; (5) Equipped with joint parts, joint objects and joint land.

Regarding flats equipped with common land, namely a plot of private land or leased land for buildings that is used on the basis of undivided joint rights on which the flat stands and the boundaries are determined in the building construction permit requirements (Article 1 number 4, Law Number 20 of 2011) common parts, namely parts of the apartment which are owned inseparably for joint use in functional unity with the apartment units (Article 1 number 5, Law Number 20 of 2011) and joint objects, namely objects which are not is part of an apartment but rather a part that is jointly owned inseparably for joint use (Article 1 point 6, Law Number 20 of 2011), so it is necessary to differentiate between the understanding of an apartment and an apartment unit.

Apart from units that are used separately, regarding joint land, joint parts and joint objects on which flats are built which, because of their nature and function, are used and enjoyed together, therefore cannot be owned by legal subjects (Ramelan, 2012).

For ownership of an apartment unit, a Certificate of Ownership Rights for an Apartment Unit or what is also known as SHMRS is given as referred to in Article 1 number 11 of the Condominium Law. Based on this understanding, it is necessary to understand that what is meant by "certificate of ownership rights" for flats is not interpreted as ownership rights as one of the rights to land as intended in Article 16 of Law Number 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as UUPA) , but a certificate of ownership of a separate space in the apartment unit.

A flat is a residence that is equipped with shared parts, shared land and shared objects. The parts that can be owned and used separately are called apartment units which must have connecting facilities such as public roads, without interfering with them and must not pass through other apartment units (Harsono, 2022).

The status of the rights to the apartment land which is the basis for the construction of the

apartment is also one of the aspects that must be considered when an apartment is being built or purchased. Based on Article 17 of the Condominium Law, an apartment can be built on land with: (1) ownership rights; (2) building use rights or use rights over state land; and (3) building use rights or use rights above management rights (Article 1 number 6, Law Number 20 of 2011).

It becomes interesting when apartment units are linked to investment in the property sector for ownership of apartment units for foreign citizens in Indonesia by paying attention to land rights in Indonesia, so that there is no disharmony with positive law in Indonesia.

2. Research Method

The research method in this writing is to use the type of research carried out, namely normative juridical legal research, namely legal research carried out by examining library materials or secondary data only. This research is also called library legal research (Guidebook for Making Theses) and is connected to the analysis of legal material and legal issues related to the problem being analyzed. This research was conducted to solve problems that arise and the results that will be obtained from this research can be used to solve various problems in the legal field by examining applicable laws and regulations from various aspects such as theoretical aspects, concepts, legal principles, philosophy. , comparison, structure/composition, consistency, general explanation and explanation of each article, formality and binding force of a law and the language used is legal language. These laws and regulations are used as a basic framework in this research which is connected with other supporting materials

The approaches used in this research include the statutory approach, conceptual approach, analytical approach. The statutory approach is carried out by analyzing the laws and regulations that are relevant to the legal issue being researched. A legislative approach will provide researchers with the opportunity to study the provisions and conformity between one law and another in connection with explaining and researching various legal rules and/or principles. A conceptual approach means starting from the development of statutory regulations and doctrines in legal science, carried out with an approach that starts with opinions and doctrines in legal research. These opinions and doctrines will find ideas that produce legal understanding, legal concepts and legal principles related to the legal issues found in this research.

An analytical approach is carried out by analyzing legal material to find out what is contained in the terms used in a legal regulation conceptually, as well as understanding the regulation in practice (Nasution, 2011).

The types and sources of legal materials used are primary, secondary and tertiary legal materials. The collection of legal materials is carried out by identifying and inventorying positive legal rules.

3. Results and Discussion

A. Legal Review of Flats with Land Rights.

UUPA is the implementation of the mandate of the provisions of Article 33 paragraph (3) of the 1945 Constitution (hereinafter referred to as UUD 45) which states that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people (Article 33 paragraph (3), the 1945 Constitution), especially those regulated in Article 2 paragraph (1) of the UUPA, it is stated that: (1) On the basis of the provisions in article 33 paragraph (3) of the Constitution and the matters as

intended in article 1, earth, water and outer space, including the natural resources contained therein, are controlled at the highest level by the State, as the ruling organization of all the people (Article 2 paragraph (1), Law Number 5 of 1960).

Based on the provisions of Article 33 paragraph (3) of the 1945 Constitution and Article 2 paragraph (1) of the UUPA, this is an embodiment of the principle of the state's right to control over land, not an embodiment of the principle of domein verklaring which adheres to the principle that all land whose ownership cannot be proven belongs to the State (Hutomo, 2022), so it is interpreted that the state is not the owner but the party given the power by the people to control and regulate in order to provide prosperity for the Indonesian people.

In the concept of state control, it means that the state obtains an authority/mandate from all the people of the Indonesian nation who is given the position of a ruling body which at the highest level has the authority to regulate land use in a broad sense and determine and regulate the relationship of use and legal actions relating to land as intended in Article 2 paragraph (2) UUPA (Soemardjono, (1998).

In the UUPA there are several types of rights to land, in Article 16 paragraph (1) and 53 paragraph (1) of the UUPA several types of rights to land are described, namely: (1) Ownership rights; (2) Cultivation rights; (3) Building use rights; (4) Use rights; (5) Rental rights; (6) The right to open land; (7) The right to collect forest products; (8) Other rights which are not included in the rights mentioned above will be determined by law as well as temporary rights as mentioned in Article 53 UUPA (Article 16 paragraph (1), Law Number 5 of 1960). In Article 53 paragraph (1) UUPA stipulates various temporary land rights, including: (1) Lien rights; (2) Profit sharing business rights; (3) Right to ride; (4) Land rental rights.

Concerning flats, it was initially regulated in Law Number 16 of 1985 concerning Flats, which was later amended by the Law on Flats. If we look at the considerations of the Condominium Law, letter e, Law Number 16 of 1985 concerning Condominium, these changes were made because they were no longer in accordance with legal developments, the needs of each person, community participation and the state's responsibilities and obligations in administering condominiums, so they needed to be replaced or renewed. Apart from that, Law Number 1 of 2011 concerning Housing and Settlement Areas also regulates flats. The objectives of building flats are: (1) Fulfilling the need for adequate housing in a healthy environment; (2) Creating harmonious, harmonious and balanced settlements; (3) Rejuvenate slum areas; (4) Optimizing urban land resources; and (5) Encouraging densely populated settlements (Hutagalung, 2022).

In this paper the focus is on flats that stand on Building Use Rights or Use Rights on state land and/or Management Rights (HPL). After the enactment of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as Law 11/2020), as regulated in Article 42 and Article 185 letter b, then the regulation of flats can be studied based on the implementing regulations, as intended in Government Regulation Number 13 2021 concerning the Implementation of Flats (hereinafter referred to as PP 13/2021), Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration (hereinafter referred to as PP 18/2021) and Regulation of the Minister of Agrarian Affairs and Spatial Planning /Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights (hereinafter referred to as Ministerial Regulation ATR 18/2021).

The cycle for granting extensions and renewals for condominium units standing on Building Use Rights can be studied based on Article 41 paragraph (3) PP 18/2021 which states that: (3) Granting building use rights for Condominium Units built on land: (a) Building use rights on state land can be granted at the same time with an extension of the rights after obtaining a certificate of functional fitness; (b) Building use rights on Management Rights land can be granted an extension and renewal of rights after obtaining a certificate of functional fitness (Article 41 paragraph (3), Government Regulation Number 18 of 2021).

In Article 96 paragraph (1) of Ministerial Decree ATR 18/2021, it is stated that: (1) In the event that the Building Use Rights are built in units of flats: (1) on state land, the application for extension of rights can be submitted simultaneously with the application for Grant of rights; or (2) on Management Rights land, the application for extension and renewal of rights can be submitted simultaneously with the application for granting rights (Article 96 paragraph (1), Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021).

Regarding the period of time for an apartment unit standing on a Building Use Right, it can be studied based on Article 87 paragraph (2) of Ministerial Regulation ATR 18/2021, it is stated that: (2) In the case of a Building Use Right, an apartment unit is built: (a) on state land then the granting and extension period can be carried out simultaneously with a maximum accumulative period of 50 (fifty) years after obtaining the certificate of functional fitness; or (b) on Management Rights land, the granting, extension and renewal period can be carried out simultaneously with a maximum accumulative period of 80 (eighty) years after obtaining a certificate of functional fitness (Article 87 paragraph (2), Government Regulation Number 18 of 2021).

In relation to apartment units on the Right to Use with a period of time, in the Ministerial Regulation ATR 18/2021 it is not specifically regulated, however, based on Article 113 paragraph (1) of the Ministerial Regulation ATR 18/2021, the term of the apartment unit standing on the Right to Use, namely Right to Use with a term granted for a maximum period of 30 (thirty) years, extended for a maximum period of 20 (twenty) years and renewed for a maximum period of 30 (thirty) years (Article 113 paragraph (1), Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021). It should be noted that what is extended or renewed is the Building Use Rights/Use Rights (main) on state land or on Management Rights (HPL) which are first applied for and then the application for extension or renewal of the apartment units is carried out taking into account the functionally fit for purpose certificates. over the flat. Based on the provisions of Article 41 paragraph (3) of PP 18/2021 and Article 87 paragraph (2) of Ministerial Regulation ATR 18/2021, it can be learned that in the context of extension/renewal, it is mandatory to pay attention to the certificate of functional fitness for the building, hereinafter referred to as SLF, namely: certificate issued by the Regional Government except for special function buildings by the Central Government, to state the suitability of the building's function as a condition for it to be utilized (Article 1 number 4, Regulation of the Minister of Public Works and Public Housing Number 27/PRT/M/2018).

This means that a certificate of functional fitness is a condition relating to the granting, extension and/or renewal of an apartment, this is because if the apartment stands on Building Use Rights on state land, then it can be granted accumulatively for a maximum of

50 (fifty) years (taking into account the cycle of granting and extending building use rights), whereas if the apartment stands on Management Rights (HPL), then it can be granted a maximum of 80 years accumulatively (taking into account the cycle of granting, extending and renewing building use rights). The term for a building suitability certificate is extended for a period of 5 (five) years (Article 54 of Regulation of the Minister of Public Works and Public Housing Number 27/PRT/M/2018).

B. Legal Review of Flat Ownership for Foreigners.

Initially, the provisions governing the ownership of flats for foreigners were as regulated in Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Homes by Foreigners Domiciled in Indonesia. After the enactment of Law 11/2020, the regulation of ownership of condominium units for foreigners is specifically regulated in Part Four of Land, Paragraph 3 Condominium Units for Foreigners, as referred to in the provisions of Articles 143 to 145.

In its development, to implement the Constitutional Court Decision Number 91/PUU-XVIII2020, improvements need to be made by replacing Law Number 11 of 2020 concerning Job Creation (Letter f of the Considering section, Law Number 6 of 2023), as promulgated in the Law. Law Number 6 of 2023 concerning the Determination of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as Law 6/2023).

The definition of a foreigner as intended in Law 6/2023 which changes, deletes or establishes new arrangements for several provisions regulated in Law Number 6 of 2011 concerning Immigration is a person who is not an Indonesian citizen (Article 1 number 9, Chapter VI Shared Ease , Part One General, Law Number 6 of 2023). Foreigners granted residence permits in Indonesia are permits given to foreigners by immigration officials or foreign service officials either manually or electronically to be in Indonesian Territory (Article 1 number 21, Chapter VI Mutual Ease, Part One General, Law Number 6 of 2023).. Permanent residence permit is a permit granted to certain foreigners to reside and settle in the Indonesian Territory as Indonesian Residents (Article 1 number 23, Chapter VI Shared Ease, Part One General, Law Number 6 of 2023).. 2023). Based on Article 54 of Law 6/2023, it is stated that: (1) Permanent residence permits can be granted to: (a) Foreigners holding limited residence permits as clergy, workers, investors and second homes; (b) Family due to mixed marriage; (c) Husband, wife and/or children of foreigners holding permanent residence permits; and (d). Foreigners who are former Indonesian citizens and former child subjects who have dual citizenship of the Republic of Indonesia (Article 54 paragraph 1, Chapter VI Mutual Ease, Part One General, Law Number 6 of 2023). (2) Permanent residence permits as intended in paragraph (1) are not granted to foreigners who do not have a national passport ((Article 54 paragraph 2, Chapter VI Common Ease, Part One General, Law Number 6 of 2023). (3) Foreigners holding permanent residence permits are Indonesian residents (Article 54 paragraph 3, Chapter VI Shared Ease, Part One General, Law Number 6 of 2023).

Likewise, arrangements for foreigners who can own condominium units are regulated in Paragraph 3 Condominium Units for foreigners, as intended in the provisions of Articles 143 to 145 of Law 6/2023, it is stated that: Ownership rights to condominium units are ownership rights. on separate individual apartment units with joint rights to joint shares, joint objects and joint land (Article 143, Part Four of Land, Paragraph 3, Law Number 6 of 2023).

Based on the definition of an apartment, the subject related to ownership of an apartment is

regulated in Article 144 of Law 6/2023 which states that: (1) Ownership rights to an apartment unit can be given to: (a) Indonesian citizens; (b) Indonesian legal entity; (c) Foreign nationals who have permits in accordance with statutory provisions; (d) Foreign legal entities that have representatives in Indonesia; or (e) Representatives of foreign countries and international institutions located or having representatives in Indonesia (Article 144, Part Four Land Affairs, Paragraph 3, Law Number 6 of 2023.

Based on Article 145, it is stated that flats can be built on land: (a) Building use rights or use rights on state land; or (b) Building use rights or use rights on management rights land (Article 143, Part Four Land, Paragraph 3, Law Number 6 of 2023).

In the implementing regulations following the promulgation of Law 11/2020, as referred to in PP 18/2021, the subject of condominium ownership is regulated in Article 67 of PP 18/2021 which states that: (1) Ownership rights over condominium units are given to: (a) Citizens Indonesia; (b) Indonesian Legal Entity. (c) Foreigners who have permits in accordance with the provisions of laws and regulations; (d) Foreign legal entities that have representatives in Indonesia; (e) Representatives of foreign countries and international institutions located or having representatives in Indonesia. (2) Apart from being given to those as intended in paragraph (1), ownership rights to apartment units can also be given to Central Government agencies or Regional Government agencies (Article 67, Government Regulation Number 18 of 2021).

In relation to residence or residence specifically for foreigners regulated in Articles 69, 71, 72 and 73 PP 18/2021, it is stated that: (1) Foreigners who can own a residence or residence are foreigners who have appropriate immigration documents. with statutory provisions. (2) In the event that a foreigner dies, the house or residence as intended in paragraph (1) can be inherited to the heirs. (3) In the event that the heir as intended in paragraph (2) is a foreigner, the heir must have immigration documents in accordance with the provisions of statutory regulations (Article 69, Government Regulation Number 18 of 2021).

In relation to residences or residences that can be owned by foreigners in connection with land rights that can be studied as intended in Article 71 PP 18/2021, it is stated that: (1) Residential houses or residences that can be owned by foreigners are: (b) Flats built on plots of land: (1) Usage rights or building use rights on state land; (2) Use rights or building use rights on Management Rights land; or (3) Use rights or building use rights on freehold land.

(2) Flats built on land with use rights or building use rights as intended in paragraph (1) letter b are flats built in special economic zones, free trade areas and free ports, industrial areas and other economic areas (Article 71, Government Regulation Number 18 of 2021).

The residence limits for home ownership can be studied based on Article 72 of PP 18/2021, it is stated that ownership of a house where foreigners live or live as intended in Article 71 is given with the following limitations: (a) Minimum price; (b) Land area; (c) Number of plots of land or apartment units; and (d) Designation for residential or residential use (Article 72, Government Regulation Number 18 of 2021).

Provisions regarding limitations as intended in Article 72 PP 18/2021 are then confirmed in Article 186 of Ministerial Regulation ATR 18/2021, it is stated that: (1) Ownership of residential houses or residences for foreigners as intended in Article 185 is limited: (a) for landed house: (1) a house in the luxury house category in accordance with the provisions of statutory regulations; (2) 1 (one) plot of land per person/family; and/or (3) the land has a maximum area of 2,000 m2 (two thousand square meters); (a) for flats in the commercial flat category

(2) In the event that it has a positive impact on the economy and social, the landed house as intended in paragraph (1) can be provided with more than 1 (one) plot of land or an area of more than 2,000 m2 (two thousand square meters) with the permission of the Minister.

(3) The restrictions as intended in paragraph (1) are excluded for ownership of residential or residential houses by representatives of foreign countries and/or representatives of international bodies (Article 186, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021).

What is interesting is that when regulating condominium units, as intended in Article 188 of Ministerial Regulation ATR 18/2021, it is stated that: (1) Condominium units owned by foreigners that are built on land with a Right to Use or Building Use Rights are given Ownership Rights over the Unit. Flats. (2) In the event that an apartment unit owned by a foreigner is built on Building Use Rights land, the joint right to ownership of the apartment unit is calculated based on the Proportional Comparison Value which consists of joint shares, joint objects and does not include joint land. (3) Obligations for land together with ownership of condominium units as intended in paragraph (2) remain attached to foreigners as holders of ownership rights to condominium units (Article 188, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021).

From the provisions of Article 188 of Ministerial Regulation ATR 18/2021, when connected with land rights, namely Building Use Rights and the proportional comparison value of common land, that

1. Based on Article 35 of the UUPA, building use rights can be granted to Indonesian citizens and legal entities established and domiciled in Indonesia, so that disharmony does not occur between the UUPA and implementing regulations. It is stated that foreigners can own apartment units on Building Use Rights on state land or on Management Rights land.
2. In relation to the proportional comparison value, also known as NPP as referred to in Article 1 number 13 of the Condominium Law, this is a number that shows the comparison between the condominium and the rights to the common share, joint objects and common land which is calculated based on the value of the condominium in question to the total value. When the developer first takes into account the overall construction costs to determine the selling price, so that if a foreigner owns an apartment unit, the NPP calculation does not include shared land. The question is what if the NPP has been calculated and stated in the certificate of ownership of the apartment units at the time of splitting each apartment unit?

Whereas on September 12 2022, Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1241/SK-HK.02/IX/2022 was issued regarding the Acquisition and Price of Residential Houses for Foreigners as a follow-up to Ministerial Regulation ATR 18/2021. In the second part of the decision, it is stated that the residence for foreigners consists of landed houses and/or flats and can: (a) Be inherited by qualified heirs, in the event that the foreigner dies; (b) Used as collateral for debt with encumbrances; and (c) Transferred and/or transferred to another party (Deciding on the second part, Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1241/SK-HK.02/IX/2022).

Based on letter b of the second part of the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1241/SK-HK.02/IX/2022 concerning the Acquisition and Price of Residential/Residential Houses for Foreigners, they can be used as collateral for debts with mortgage rights, if they are linked to rights. Dependents are: Mortgage rights over land and related objects with land which is hereinafter referred to as Mortgage Rights is security rights imposed on land rights as follows referred to in Law Number 5 of 1960 concerning Basic

Agrarian Principles Regulations, following or not following other objects which are an integral part of the land, for the repayment of certain debts, which gives that position giving priority to certain creditors over other creditors (Article 1 point 1 of Law Number 4 of 1996).

Linked to Article 188 of Ministerial Regulation ATR 18/2021 paragraph (2) that for flats owned by foreigners built on Building Use Rights land, it is not included in shared land so it is hoped that legal disharmonization will not occur.

In the deciding part, the third part is issued Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 1241/SK-HK.02/IX/2022 concerning the Acquisition and Price of Residential/Residential Houses for Foreigners as a follow-up to Ministerial Regulation ATR 18/2021, it is stated that houses residence/residence for foreigners as intended in the SECOND Dictum is provided with the following minimum price limits:

b. Flat units: (1) Special Capital Region (DKI) Jakarta, minimum price Rp. 3,000,000,000,- . (2) Banten, minimum price Rp. 2,000,000,000,-. (3) West Java, minimum price Rp. 2,000,000,000,- . (4) Central Java, minimum price Rp. 2,000,000,000,- (5) East Java, minimum price Rp. 2,000,000,000,- (6) Bali, minimum price Rp. 2,000,000,000,- (7) Special Region of Yogyakarta, minimum price Rp. 2,000,000,000,- (8) Other regions or provinces, minimum price Rp. 1,000,000,000,- (Article 1 number 1 of Law Number 4 of 1996, Deciding on the third part.).

That on November 1, 2023, a Letter from the Directorate General of Determination of Land Rights and Registration Number HR.01/1963/XI/2022 of 2022 was issued concerning Instructions for Implementing the Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1241/SK-HK.02 /IX/2022 concerning the Acquisition and Price of Residential Houses for Foreigners to implement the provisions of Article 187 paragraph (2) of Ministerial Regulation ATR 18/2021. In the letter it is stated that there are restrictions on ownership of residential or residential homes by foreigners for flats in the commercial flat category and can be built on: (1) Usage rights or building use rights on state land; (2) Use rights or building use rights on Management Rights land; or (3) Use rights or building use rights on freehold land.

The definition of a commercial flat is a flat held for profit (Article 1 number 10, Law Number 20 of 2011). Apart from commercial flats, other types of flats are known in Indonesia, including state flats, public flats and special flats. Regarding foreigners' documents relating to flats, it can be studied based on the explanation of Article 69 PP 18/2021 which states that what is meant by "immigration documents" is a visa, passport or residence permit issued by an authorized agency in accordance with the provisions of laws and regulations regarding immigration. (Explanation of Article 69, Government Regulation Number 18 of 2021). According to Law Number 6 of 2011 concerning Immigration in Article 1 number 14, it is stated that travel documents for the Republic of Indonesia and residence permits are issued by Immigration Officials or service officials.overseas. It becomes interesting when in practice sales or acquisitions are linked to taxation in Indonesia regarding the status of the tax subject which is linked to the Taxpayer Identification Number (NPWP), so that stakeholders also consider the taxation in question.

4. Conclusion

1. In the UUPA there are several types of rights to land, in Article 16 paragraph (1) and 53 paragraph (1) of the UUPA several types of rights to land are described, namely: (1) Ownership rights; (2) Cultivation rights; (3) Building use rights; (4) Use rights; (5) Rental rights; (6) The right to open land; (7) The right to collect forest products; (8) Other rights

which are not included in the rights mentioned above will be determined by law as well as temporary rights as stated in Article 53 of the UUPA. After the enactment of Law 11/2020, the regulation of ownership of condominium units for foreigners is specifically regulated in Part Four of Land, Paragraph 3 Condominium Units for Foreigners, as referred to in the provisions of Articles 143 to 145.

2. In order to implement the Constitutional Court Decision Number 91/PUU-XVIIl2020, improvements need to be made by replacing Law Number 11 of 2020 concerning Job Creation (Letter f of the Considering section, Law Number 6 of 2023), as promulgated in Law Number 6 of 2023 concerning the Determination of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as Law 6/2023).

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Surat Direktorat Jenderal Penetapan Hak Dan Pendaftaran Tanah Nomor HR.01/1963/XI/2022 Tahun

2022 tentang Petunjuk Pelaksanaan Keputusan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 1241/SK-HK.02/IX/2022 tentang Perolehan dan Harga Rumah Tempat Tinggal/Hunian Untuk Orang Asing.

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