



LEGAL ANALYSIS OF OWNERSHIP OF A PLACE OF RESIDENCE BY FOREIGNERS DOMICILED IN INDONESIA, ON LAND WITH MANAGEMENT RIGHTS (HPL) CASE STUDY OF BATAM BUSINESS ENTITIES

Rinda Kharisa^{1*}, Erniyanti¹, Soerya Respationo¹, Markus Gunawan¹

¹Universitas Batam, Batam, Indonesia

E-mail: Rindakharisa24@gmail.com*, erniyanti@univbatam.ac.id, 1012095902@univbatam.ac.id,
markusgunawan@hotmail.com

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Abstract

This study examines the legal framework, implementation, obstacles, and solutions concerning residential ownership by foreigners domiciled in Indonesia on land under the Management Right (Hak Management/HPL) of the Batam Indonesia Free Zone Authority (BP Batam). The research uses a normative-empirical legal design by combining statutory, conceptual, and case approaches with field data obtained through interviews with notaries/PPAT, BP Batam officials, and land-administration actors. The findings indicate that foreign residential ownership has a sufficient normative basis through the Basic Agrarian Law, the Job Creation regulatory framework, Government Regulation No. 18 of 2021, and implementing regulations. Foreigners cannot hold ownership rights over land; the legally available route is principally a Right of Use and, under relevant conditions, ownership of apartment units constructed on eligible land rights, including HPL land. In Batam, implementation requires BP Batam land allocation or approval and subsequent land registration, creating an additional administrative layer. The main problems are regulatory disharmony, institutional overlap, complex procedures, weak inter-agency integration, and risks of nominee arrangements. Harmonization, integrated digital services, clearer standard procedures, and stronger supervision are therefore required to improve legal certainty while maintaining the nationality principle in Indonesian land law.

Keywords: Foreigners; Legal Certainty; Management Rights; Residential Ownership; Right of Use

INTRODUCTION

Property development in Indonesia is a key indicator of national economic growth, particularly in strategic areas with significant geographic and economic significance, such as Batam City. As a free trade zone and free port, Batam is highly attractive to foreign investors, driving increased demand for infrastructure and housing (Harsono, 2018). In the Indonesian legal system, as mandated by Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it is stated that the land, water, and natural resources contained therein are controlled by the state and used to the greatest extent possible for the prosperity of the people. In this context, land and property management is an important instrument in supporting development while safeguarding national interests.

With the increasing flow of foreign investment, the presence of foreigners residing in Indonesia has become an inevitable phenomenon. Their presence, whether as workers, investors, or business owners, has created a need for adequate housing and legal certainty regarding land ownership in Indonesia. Normatively, the Indonesian government has accommodated these needs through various regulations, including Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and implementing regulations such as Government Regulation Number 103 of 2015 concerning Ownership of Residences or Dwellings by Foreigners Domiciled in Indonesia. This regulation provides space for foreigners to own residences while still adhering to the principle of state land ownership (Santoso, 2020).

However, regulations regarding home ownership by foreigners in Indonesia are not absolute but are instead limited by national agrarian law. The Basic Agrarian Law (UUPA) explicitly distinguishes legal entities that can own land rights, with ownership rights reserved for Indonesian citizens. Foreigners are granted limited rights in the form

of a Right of Use (Hak Pakai), as stipulated in Article 42 of the UUPA. This limitation aims to maintain state sovereignty over land while preventing widespread land acquisition by foreign parties. In practice, this provision often creates legal dynamics, particularly in property transactions involving foreign legal entities (Sutedi, 2019). However, unlike other regions in Indonesia, land rights management in Batam City is regulated by Law Number 44 of 2007 concerning the Batam Free Trade Zone and Free Port. Law Number 44 of 2007 concerning the Batam Free Trade Zone and Free Port provides a specific legal framework for the management and exploitation of land in Batam City, known as a free trade zone and free port.

This regulation is intended to support economic and industrial development in Batam by providing incentives and facilities for investment and other economic activities. With this special status, land management in Batam differs from other regions in Indonesia, particularly in terms of land rights, designed to facilitate investment and infrastructure development by both domestic and foreign investors. The problem becomes even more complex when it comes to land with Management Rights (HPL) status, particularly that under the authority of the Batam Business Agency (BP Batam). HPL is a state-granted right of control, with some of the implementation authority delegated to specific agencies or institutions to manage and plan land use (Parlindungan, 2020; Sumardjono, 2021).

From the perspective of Batam's administrative law, the Batam Free Trade Zone Authority (BP Batam) holds strategic authority over land management, including granting derivative rights such as Building Use Rights (HGB) and Use Rights (Hak Pakai) to third parties. This situation raises legal issues regarding the mechanism for foreigners to own residential properties on HPL land and the extent of its legal certainty (Parlindungan, 2020; Sumardjono, 2021). Furthermore, in practice, the involvement of a notary in the preparation of deeds related to property transactions is an essential aspect. Notaries play a crucial role in ensuring the validity and legal certainty of agreements entered into by the parties, including those involving foreigners and land with HPL status (Adjie, 2022).

However, the discrepancy between applicable legal norms and actual practice often creates potential legal conflicts, both in terms of ownership, control, and transfer of rights. Therefore, a comprehensive legal study is needed to analyze residential ownership by foreigners on BP Batam's HPL land to provide legal certainty and legal protection for the parties involved (Adjie, 2022).

Legal issues arise when foreigners exploit these derivative rights to own or control residential homes on HPL land. Normatively, foreigners are only permitted to own a Right of Use (Hak Pakai) over the land, but in practice, variations in legal schemes are often used, such as nominee agreements, sales and purchase agreements, or other forms of agreement that potentially conflict with statutory provisions. This situation raises questions regarding the legality of such ownership and the potential violation of the principle of nationality in agrarian law.

Furthermore, legal certainty is a crucial issue for foreigners in residential ownership on HPL land. Unclear legal statuses between HPL, HGB, and Right of Use often lead to multiple interpretations in their implementation. This is exacerbated by differing understandings among implementing officials, notaries, and the parties involved in the transaction. Consequently, legal disputes concerning ownership status, the validity period of the rights, and the transfer of land rights are not uncommon. In notarial practice, notaries play a crucial role as public officials authorized to issue authentic deeds. In transactions involving foreigners and land with HPL status, notaries are required to have a comprehensive understanding of agrarian law and other relevant regulations. Notaries are not only tasked with documenting the wishes of the parties in the form of a deed, but also with ensuring that the legal act does not conflict with statutory provisions. Thus, notaries have a preventive function in preventing future legal disputes.

However, in reality, there remains a gap between applicable legal norms and actual practice. Some transactions involving foreigners are often conducted using legal frameworks that do not fully comply with applicable regulations, potentially creating legal risks for both the parties and the notaries involved. This situation demonstrates the need for harmonization between regulations and practice, as well as increased legal understanding for those involved in the land and notary sectors (Adjie, 2022).

Based on the description, as a writer, it can be concluded that the problem of residential ownership by foreigners domiciled in Indonesia on BP Batam HPL land is a complex and multidimensional issue, which involves statutory regulations, ministerial regulations, aspects of agrarian law, notary law, and area management policies. Therefore, a comprehensive legal study is needed to analyze these problems in depth, in order to provide legal certainty, legal protection, and constructive recommendations in order to improve notarial regulations and practices in Indonesia, especially in the Batam area.

Research Focus and Contribution

1. How is the legal regulation of residential ownership by foreigners domiciled in Indonesia on BP Batam Management Right land?

2. How is the regulation implemented in the allocation, granting, registration, and continuation of rights in Batam?
3. What obstacles affect legal certainty, and what regulatory and institutional solutions are required?

The contribution of this study lies in integrating agrarian law, the special characteristics of BP Batam's HPL, land-administration practice, and the preventive role of notaries/PPAT. The analysis does not treat foreign residential ownership merely as a question of entitlement, but as a chain of public and private legal relations involving the state, the HPL holder, the land office, developers, notaries/PPAT, immigration administration, and foreign residents.

LITERATURE REVIEW

Legal Certainty as Grand Theory

The theory of legal certainty is a fundamental theory in legal science, emphasizing that law must provide clarity, firmness, and predictability in its application. Legal certainty is a primary requirement for maintaining order in society, as uncertain laws will lead to distrust and potential conflict between legal entities. In this context, legal certainty is closely related to the existence of clear norms that are not open to multiple interpretations and can be consistently applied by law enforcement officials (Wantu, 2021; Rahardjo, 2020).

According to Gustav Radbruch, legal certainty is one of the three fundamental values of law, along with justice and utility. Radbruch emphasized that law must have clear norms to serve as a guide for society's actions. Without legal certainty, law loses its function as a tool for regulating social life. Therefore, in every legal formation and implementation, the aspect of certainty must be a primary concern (Wantu, 2021; Rahardjo, 2020).

Furthermore, Hans Kelsen, in his Pure Theory of Law, emphasized the importance of legal certainty through a hierarchically structured system of norms. Kelsen argued that law must be understood as a system of norms that apply logically and consistently, so that each norm has a clear basis of legitimacy from a higher norm. Thus, legal certainty can be achieved when there is consistency between one norm and another within a legal system (Asshiddiqie, 2021).

In the context of Indonesian law, the theory of legal certainty was also developed by national legal experts such as Sudikno Mertokusumo, who stated that legal certainty is a guarantee that the law is implemented properly and provides protection for the public from arbitrary action. Legal certainty relates not only to the clarity of norms but also to the consistency of law enforcement by authorized officials (Mertokusumo, 2020).

The theory of legal certainty is used as a grand theory in this research because the problem studied is directly related to the unclear legal norms and practices in residential ownership by foreigners on land with Management Rights (HPL) of BP Batam. The complexity of the legal relationship between HPL, Building Use Rights (HGB), and Use Rights, as well as the involvement of foreign legal subjects, gives rise to the need for an analysis that emphasizes legal certainty. Thus, this theory is relevant to examine whether existing regulations and practices have provided legal certainty or vice versa.

The relevance of legal certainty theory in this research lies in its ability to serve as an analytical tool in assessing whether the regulations and practices of foreign home ownership on BP Batam's HPL land meet the principle of legal certainty. This analysis covers regulatory aspects, implementation, and the role of notaries in ensuring the validity and legal certainty of transactions (Fuady, 2022; Ali, 2021).

By using the theory of legal certainty as its primary foundation, this research is expected to identify weaknesses in existing regulations and practices and provide constructive recommendations for improving legal certainty in the land and notary sectors. Ultimately, the application of this theory aims not only to address the research problem but also to support the creation of a more just and orderly legal system that provides legal protection for all parties involved.

Legal System Theory

Lawrence M. Friedman's legal system theory is an important theory for understanding how law works in society. Friedman states that law is not simply understood as written norms, but as a system consisting of various interrelated and influencing elements. In his view, the effectiveness of law is largely determined by the interaction between legal structure, legal substance, and the legal culture that develops within society (Warassih, 2021; Rahardjo, 2020). Legal structure, in Friedman's theory, refers to the institutions or agencies that enforce the law, such as courts, governments, notaries, and other administrative bodies. This legal structure acts as the implementer and enforcer of the law, thus its existence is crucial for determining whether a legal rule can be effectively implemented. Without a strong and professional structure, the law will be difficult to enforce consistently (Warassih, 2021; Rahardjo, 2020). Legal substance is the content of the law itself, namely norms, laws, and applicable policies. Legal substance reflects

the values the law seeks to embody in society. In this context, the quality of legal substance is crucial in determining whether a regulation can provide justice, certainty, and benefit to society (Warassih, 2021; Rahardjo, 2020).

Legal culture refers to a society's attitudes, values, and perceptions of the law. Friedman emphasized that legal culture is a crucial element because it determines how society responds to and complies with the law. A strong legal culture encourages compliance, while a weak legal culture can lead to violations and deviations in practice (Warassih, 2021; Rahardjo, 2020).

Legal system theory is used as a middle theory in this study because it bridges the gap between grand theory, specifically legal certainty, and applied theory in the agrarian and notary sectors. This theory provides a comprehensive analytical framework for examining not only normative aspects but also the implementation and social factors that influence the operation of the law in practice, particularly regarding home ownership by foreigners on BP Batam's HPL land.

Authority and Management Rights (HPL)

Management Rights (HPL) is a key concept in Indonesian agrarian law, originating from the development of state control rights as stipulated in the Basic Agrarian Law (UUPA). Conceptually, HPL is not explicitly mentioned in the UUPA, but emerged through land practices and policies that were later recognized in various laws and regulations. HPL represents the delegation of partial state authority to specific bodies or agencies to manage state land for planning, use, and utilization (Harsono, 2021; Parlindungan, 2020).

The concept of HPL is essentially a derivative of the state's right of control, granting the holder the authority to plan land use, use the land for specific purposes, and transfer portions of the land to third parties through land rights such as Building Use Rights (HGB) and Use Rights (Hak Pakai). Therefore, HPL is characterized as a public right with a private dimension in its implementation (Harsono, 2021; Parlindungan, 2020). According to Boedi Harsono, a Land Use Permit (HPL) is a right that grants the holder the authority to regulate and manage land use and determine the legal relationship between third parties and the land. In this case, an HPL does not grant ownership rights, but rather administrative and functional management rights. Therefore, an HPL differs from other land rights, such as ownership rights, HGB (Hak Pakai), and Right of Use (Harsono, 2021; Parlindungan, 2020).

Furthermore, Urip Santoso explained that HPL plays a strategic role in managing state land, particularly in specific areas such as industrial estates, ports, and free trade zones. In the Batam context, HPL serves as the primary instrument for the Batam Business Agency (BP Batam) in managing and distributing land to third parties. This demonstrates the crucial role of HPL in supporting economic development and investment (Santoso, 2022). The Management Rights Theory (HPL) is used as an applied theory in this research because it is directly related to the object of study, namely home ownership by foreigners on HPL land owned by BP Batam. This theory provides a conceptual foundation for understanding the land management mechanism by BP Batam and the legal relationship between HPL holders and third parties, including foreigners as legal subjects.

The relevance of using HPL theory in this research lies in its ability to explain the complex legal relationship between the state, BP Batam as the HPL holder, and third parties as recipients of land rights. In the context of home ownership by foreigners, this theory helps identify applicable legal boundaries and legitimate mechanisms for land ownership. Furthermore, the HPL theory also serves as an analytical tool in assessing whether the granting of derivative rights, such as HGB and Right of Use (Hak Pakai) on HPL land, complies with statutory provisions. This is crucial to ensure that there are no irregularities in practice, particularly those involving foreign legal entities with limited land ownership rights.

Conceptual Framework

In the context of Indonesian law, foreigners' ownership of a dwelling by a foreign legal entity domiciled in Indonesia is a form of control over a dwelling by a foreign legal entity domiciled in Indonesia, based on certain rights recognized by law. Legally, foreigners are not permitted to own land; they may only own a dwelling through a Right of Use (Hak Pakai) or other limited rights in accordance with agrarian law. This ownership relates not only to physical control over the building but also to the legal relationship with the land upon which the building stands.

Land rights are rights granted by the state to legal subjects to use and/or utilize land in accordance with applicable provisions. In this study, the land rights referred to include the Right to Use, namely the right to use and/or collect proceeds from land controlled by the state or land owned by others; Building Use Rights (HGB), namely the right to construct and own buildings on land that is not owned by the state for a certain period of time; and Management Rights (HPL), namely the right to control from the state whose implementation is delegated to a certain agency to manage the land. Management Rights (HPL) are rights granted by the state to certain legal entities or

government agencies to manage state land, including planning its use, using the land for specific purposes, and transferring portions of the land to third parties through the granting of land rights such as HGB or Right of Use. HPL is not an ownership right, but rather an administrative right of control and provides limited management authority in accordance with state policy. A foreigner residing in Indonesia is an individual who is not an Indonesian citizen and resides in Indonesian territory with valid permission in accordance with applicable laws and regulations. This status can be in the form of a limited stay permit or a permanent stay permit, which allows the foreigner to engage in certain activities, including owning a residence, within applicable legal limits.

A notarial deed is an authentic deed drawn up by or before a notary, a public official authorized to do so, containing a statement or agreement between the parties regarding a legal act. This deed has perfect evidentiary force and is binding on the parties, thus serving as valid evidence in civil law. In the context of this research, notarial deeds relate to transactions of ownership or control of houses by foreigners on HPL land (Adjie & Hafidh, 2021). Legal certainty is a condition in which the law provides clarity, firmness, and guarantees the rights and obligations of every legal subject, thereby creating a sense of security and justice in society. Legal certainty implies that the law must be formulated clearly, not open to multiple interpretations, and can be consistently applied by law enforcement officials (Mertokusumo, 2020).

Table 1. Key concepts used in the analysis

Concept	Operational meaning in this study
Management Rights (HPL)	Delegated state-management authority held by BP Batam to plan, use, and allocate land, including granting derived land rights to third parties.
Right of Use	The principal land right available to qualifying foreigners for residential purposes under the agrarian-law framework.
Building Use Rights (HGB)	A building-use right that may exist above HPL and can be relevant to apartment development, subject to statutory restrictions on foreign ownership.
Legal certainty	Clarity, consistency, predictability, and enforceability of rights, procedures, institutional authority, and legal consequences.
Notarial/PPAT function	Preventive legal function in authenticating transactions, explaining legal limits, and avoiding arrangements that circumvent the nationality principle.

METHOD

The type of research used in this thesis is normative-empirical legal research. Normative legal research is conducted by examining legal materials in the form of laws and regulations, legal principles, and legal doctrines relevant to the problem under study. In this case, normative research is used to analyze the legal regulations regarding residential ownership by foreigners and the status of land under Management Rights (HPL) in Indonesia within the Indonesian agrarian legal system (Marzuki, 2022; Soekanto & Mamudji, 2021). Meanwhile, an empirical approach was used to examine how these legal provisions are applied in practice, particularly in the Batam region. Empirical research was conducted through primary data collection in the form of interviews with relevant parties, such as notaries, BP Batam officials, and land agencies. Thus, this research is not only theoretical but also able to describe the actual conditions that occur in practice (Marzuki, 2022; Soekanto & Mamudji, 2021).

Statute Approach

This approach is conducted by examining various laws and regulations related to the research object, such as the Basic Agrarian Law (UUPA), government regulations, and ministerial regulations governing residential ownership by foreigners and the management of HPL land. This approach aims to determine the compatibility between applicable legal norms and the research problem.

Conceptual Approach

A conceptual approach is used to understand legal concepts developed in legal doctrine and literature, such as ownership, land rights, management rights (HPL), and legal certainty. This approach helps researchers develop a systematic and comprehensive framework for analyzing research problems.

Case Approach

A case-by-case approach is employed by examining cases related to residential ownership by foreigners, both in Batam and elsewhere in Indonesia. This approach aims to understand how the law is applied in practice and to identify issues that arise in its implementation.

Research Location

This research was conducted in the Batam City area, specifically in agencies that are related to land management and property transactions, such as the Batam Business Agency (BP Batam), land offices, and notary offices that handle property transactions involving foreigners.

Data Sources

To obtain complete and valid data, this study uses three types of data sources, namely as follows:

Primary Data

Primary data was obtained through direct interviews with parties who have competence and are related to the research object, including:

- Notary/PPAT
- BP Batam Officials
- Land agency (BPN)

This primary data is used to obtain a real picture of the practice of residential ownership by foreigners domiciled in Indonesia on HPL land and the obstacles faced in its implementation.

Secondary Data

Secondary data in this study consists of:

- Primary legal materials, namely relevant laws and regulations, such as the Basic Agrarian Law (UUPA), government regulations, and relevant ministerial regulations.
- Secondary legal materials, namely legal literature in the form of books, scientific journals, and previous research results related to the research topic.
- Tertiary legal materials, namely supporting materials such as legal dictionaries and legal encyclopedias which are used to clarify legal terms and concepts.

The simultaneous use of primary and secondary data in this study aims to obtain a comprehensive analysis, both from a normative and empirical perspective, so that the research results can provide a complete picture of the problem being studied.

The population in this study comprised all subjects directly involved in the issue of residential ownership by foreigners residing in Indonesia on land with Management Rights (HPL) in Batam. This population included notaries/PPATs, officials from the Batam Business Agency (BP Batam), and legal practitioners with experience and competence in land and notarial law. This population was selected because they are directly involved in the regulation, implementation, and supervision of HPL land use and property transactions involving foreigners.

Given the large population, this study employed purposive sampling, a sampling technique based on specific criteria deemed relevant to the research objectives. These criteria include experience in handling land transactions involving foreigners, understanding of HPL regulations, and having authority or direct involvement in field practice. This method is expected to yield more in-depth data and provide a representative picture of the issues under study (Sugiyono, 2020; Bungin, 2022).

Data Collection Techniques

In this study, data collection techniques were carried out using several methods, namely as follows:

Literature Study

The literature review was conducted by examining various legal materials relevant to the research, including laws and regulations, textbooks, scientific journals, and previous research findings. This technique aims to establish a strong theoretical and conceptual foundation for analyzing research problems, particularly those related to agrarian law, Management Rights (HPL), and home ownership by foreigners.

Interviews

Interviews were conducted directly with informants identified through purposive sampling, including notaries, BP Batam officials, and legal practitioners. The purpose of these interviews was to obtain factual and up-to-date primary data regarding the practice of home ownership by foreigners on HPL land, as well as the obstacles encountered in its implementation. The interviews were semi-structured to allow for the development of relevant information (Sugiyono, 2020; Bungin, 2022).

Documentation

Documentation techniques were used to collect various documents related to the research object, such as notarial deeds, agreements, BP Batam policy archives, and other administrative documents. This documentation was used as supporting data to strengthen the analysis results and to verify the data obtained through interviews and literature review.

Data Analysis

The data analysis in this study was conducted qualitatively, namely by processing and interpreting data collected from both literature studies and interviews. Qualitative analysis was conducted by grouping data, connecting one data point to another, and drawing conclusions based on the patterns found. This method was used because this study aimed to understand legal phenomena in depth, not to measure them quantitatively (Sugiyono, 2020; Bungin, 2022).

Furthermore, in analyzing legal materials, this study employed legal interpretation methods, specifically systematic and grammatical interpretation. Systematic interpretation is conducted by understanding a legal provision in relation to other related regulations, thus achieving a complete and unbiased understanding. Meanwhile, grammatical interpretation is conducted by interpreting legal norms based on the meaning of the words or language used in the legislation (Susanti & Efendi, 2022).

By using qualitative analysis methods and legal interpretation techniques, this research is expected to be able to provide a comprehensive analysis of the problem of residential ownership by foreigners domiciled in Indonesia on BP Batam HPL land, as well as produce relevant and scientifically accountable conclusions.

RESULTS AND DISCUSSION

1. Legal Regulation of Foreign Residential Ownership on BP Batam HPL

Normatively, ownership of residential premises by foreigners domiciled in Indonesia is based on the principle of nationality as stipulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The UUPA stipulates that Property Rights may only be held by Indonesian citizens, while foreigners are not permitted to own Property Rights to land in Indonesia. However, the UUPA provides space for foreigners to obtain Land Use Rights under certain conditions in accordance with statutory regulations.

These regulatory developments were strengthened through Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law Number 2 of 2022 into Law (Job Creation), which was then implemented through Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. This regulation revokes previous regulations, including Government Regulation Number 103 of 2015, and serves as the primary legal basis for foreign home ownership in Indonesia.

Foreigners' residential ownership is regulated in Article 69 of Government Regulation Number 18 of 2021, which states that foreigners who can own a home or residence are those who possess immigration documents in accordance with statutory provisions. Furthermore, Article 71 states that residential homes that can be owned by foreigners include:

- Landed house on land with right of use;
- Landed houses on Right of Use originating from Ownership Rights;
- Apartment units built on Right of Use or Right of Building, including those located on Land Management Rights (HPL).

Based on these provisions, foreigners do not own the land but instead obtain the Right to Use the land or the right to a condominium unit within the time limit determined by statutory regulations.

In the context of Batam City, this regulation has unique characteristics because most of the land is under Management Rights (HPL) managed by the Batam Business Entity Agency. Under Government Regulation No. 18 of 2021, HPL land can be granted Building Use Rights (Hak Guna Bangunan) or Use Rights (Hak Pakai) to another party through a land use agreement with the HPL holder.

This means that if a foreigner wants to own a house in Batam, the legal mechanism is:

- BP Batam as the HPL holder provides approval for land use;
- The land rights given to house holders are Use Rights, not Ownership Rights;
- Ownership of the house must meet administrative requirements, immigration, minimum house value, land area, number of land plots, and other provisions set by the government.

Furthermore, Minister of ATR/BPN Regulation No. 18 of 2021 governs the procedures for determining Management Rights and granting land rights over HPL, including the procedure for granting Use Rights to eligible parties. This regulation provides legal certainty regarding land administration processes, the legal relationship between HPL holders and land rights recipients, and the land rights registration mechanism.

Legally, the existence of BP Batam's HPL constitutes a form of state control over land, the implementation of which is delegated to BP Batam as a public legal entity. Therefore, any granting of land rights to foreigners must obtain the approval of BP Batam as the HPL holder, in addition to meeting the requirements of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. This demonstrates that the land system in Batam has a dual administrative authority between BP Batam as the HPL holder and the Land Office as the land rights registration agency.

Based on the author's analysis, the theory of legal certainty is highly relevant to BP Batam's HPL. In the context of foreigners owning residential properties on BP Batam's HPL land, Radbruch's theory is used to assess whether legal regulations have provided certainty regarding:

- The legal status of BP Batam's HPL land, namely that the land is under the management of BP Batam as the HPL holder based on the delegation of state authority.
- The type of rights that foreigners can have is only in the form of Right of Use over a residential house or apartment unit in accordance with the provisions of the UUPA, PP Number 18 of 2021, and its implementing regulations, not Ownership Rights.
- Rights granting procedures, which require approval or allocation of land from BP Batam as the HPL holder before land rights are registered at the Land Office.
- Legal protection for rights holders, so that foreigners who meet the requirements receive a guarantee for the use of the residence as long as the rights are still valid.

Based on Radbruch's Theory, when linked to practice in Batam, there are still several issues that affect legal certainty, including:

- There are no regulations that specifically integrate the authority of BP Batam with national land administration in granting rights to foreigners;
- Differences in interpretation regarding the procedures for granting rights to HPL land between authorized agencies;
- There is an additional mechanism in the form of land allocation and BP Batam approval which is not found in other areas, so the process becomes more complex.

This condition shows that even though the legal basis for residential ownership by foreigners is available, its implementation on BP Batam HPL land still requires regulatory harmonization to create legal certainty as stated by Gustav Radbruch.

Thus, based on Gustav Radbruch's theory, legal certainty regarding residential ownership by foreigners on BP Batam's HPL land can only be achieved if there are harmonious regulations, clear procedures, a clear division of authority between BP Batam and the Ministry of ATR/BPN, and consistent legal protection for all parties involved. This is crucial to ensure that the legal objectives of certainty, justice, and benefit can be achieved in a balanced manner.

These legal certainty regulations reflect a balance between protecting the principle of nationality in Indonesian agrarian law and the need for foreign investment in the property sector. Foreigners are granted the opportunity to own residences to support economic and investment activities, but remain restricted through the use of Right of Use (Hak Pakai), minimum property value restrictions, and government oversight to ensure state control over the land is not diminished.

Thus, the legal regulation of residential ownership by foreigners on land with Management Rights of BP Batam has a fairly comprehensive legal basis, namely through the UUPA, the Job Creation Law, PP Number 18 of 2021, and Regulation of the Minister of ATR/BPN Number 18 of 2021. However, in practice, several obstacles are still encountered, such as coordination between BP Batam and ATR/BPN, a complex licensing process, and the need for policy harmonization to provide legal certainty for foreign investors without neglecting national interests.

Table 2. Main regulatory basis and implications

Legal instrument	Main implications for the study
1945 Constitution, Article 33(3)	Provides the constitutional basis for state control over land and natural resources.
Law No. 5 of 1960 (UUPA)	Maintains the nationality principle; foreigners cannot hold Hak Milik and may use legally permitted limited rights, especially Hak Pakai.
Law No. 6 of 2023 / Job Creation framework	Forms part of the current regulatory architecture affecting land rights and investment.
Government Regulation no. 18 of 2021	Regulates HPL, land rights, apartment units, land registration, and foreign residential ownership.
Minister of ATR/BPN Regulation no. 18 of 2021	Provides procedures for HPL determination and the granting/registration of rights over HPL land.

Right of Use, Immigration Status, and BP Batam Authority

Based on the author's normative analysis of the UUPA, the Right to Use is regulated in Articles 41 to 44. The UUPA, which serves as the legal umbrella for the agrarian sphere, provides several land ownership institutions that can be used by Foreign Citizens in their opportunity to control land in Indonesia. Based on Article 41 of the Basic Agrarian Law (UUPA), the right to use is the right to use and/or collect proceeds from land directly controlled by the state or land owned by others. Therefore, the government grants authority and obligations to the holder as determined in the decision of the authorized official or an agreement with the landowner, while Article 44 mentions the right to lease for buildings. The right to lease for buildings in question is intended for the buildings only, not as intended as the right to lease for agricultural land in Article 10 of the UUPA.

The results of the study show that residential ownership by foreigners domiciled in Indonesia on land (HPL) is legally accommodated through apartment units (sarusun) built on land with Right of Use status based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 29 of 2016 concerning Procedures for Granting, Releasing or Transferring Rights to Residential Houses or Dwellings by Foreigners domiciled in Indonesia. Article 113 of the Regulation of the Minister of Agrarian Affairs No. 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights is a derivative of the Job Creation Law which states that Right of Use is granted for a period of 30 (thirty) years, and can be extended for a period of 20 (twenty) years.

In this study, the author analyzes based on Article 16 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), land rights are divided into several types, namely: Ownership Rights, Cultivation Rights (HGU), Building Rights (HGB), Usage Rights, and so on. Law No. 5 of 1960 concerning Basic Agrarian Regulations (UUPA) in Article 42 provides space for foreign nationals to obtain Usage Rights over land as long as they meet certain requirements, such as having a residence permit in Indonesia.

According to researchers' analysis, land ownership is inseparable from human rights, which play a crucial role in meeting social needs. The need for land ownership is increasing as opportunities open up for foreign nationals to reside in Indonesia for employment and to support economic growth through investment.

Foreign nationals visiting and wishing to reside in Indonesia can be divided into two groups: those staying for a specific period and those seeking permanent residency. Both groups must have a residence permit in Indonesia, as stipulated in Article 77 of the Minister of Law and Human Rights Regulation Number 11 of 2024 concerning Amendments to the Minister of Law and Human Rights Regulation Number 22 of 2023 concerning visas and residence permits, as follows:

The results of this study indicate that residence permits are related to ownership. A residence permit serves as the legal basis that allows foreign nationals to obtain certain rights. Legally, land and building ownership rights that can be obtained by foreign nationals or foreign legal entities in Indonesia are limited to the right of use for a specified period.

This is in line with Boedi Harsono's Theory of Authority. According to Boedi Harsono, Management Rights (HPL) are not land rights like Ownership Rights, Cultivation Rights, Building Rights, or Usage Rights, but rather the delegation of some state authority (State Control Rights) to a government agency or institution to manage state

land. Thus, HPL holders only obtain public authority in land management, not ownership rights to the land (Harsono, 2021).

In the context of the Batam Free Trade Zone Authority (BP Batam), this authority stems from Presidential Decree No. 41 of 1973, which granted the BP Batam a Land Use Right (HPL) to manage the Batam area. As the holder of the HPL, the BP Batam has the authority to:

- Planning the allocation and use of land;
- Using land to carry out the duties and functions of BP Batam;
- Handing over parts of the land to third parties by granting land rights, such as Building Use Rights (HGB) or Usage Rights, in accordance with statutory provisions; and
- Receive income in the form of UWTO (Annual Compulsory Authority Fee) or other forms of income according to the provisions.

Relevant to foreign residential ownership, based on Boedi Harsono's theory, foreigners do not obtain direct rights to BP Batam's HPL land. The legal relationship is established through the granting of a Right of Use (Hak Pakai) over the HPL land after obtaining approval or land allocation from BP Batam as the HPL holder. This indicates that BP Batam acts as the holder of management authority representing the state, while the only rights that foreigners can possess are the Right of Use (Hak Pakai) over the HPL land in accordance with the provisions of the Basic Agrarian Law and its implementing regulations, not the Right of Ownership (Hak Milik) (Harsono, 2021).

Application in Research Analysis Boedi Harsono's theory of authority is used to analyze that:

- The authority of BP Batam in granting approval for land use is the implementation of part of the State's Right to Control;
- BP Batam is not authorized to transfer land ownership to foreigners, but only facilitates the granting of derivative rights in accordance with agrarian provisions;
- Ownership of residential premises by foreigners in Batam must remain based on the principle of nationality in the UUPA, so that the only rights that can be granted are Usage Rights on HPL land by fulfilling the requirements of statutory regulations.

Thus, Boedi Harsono's theory emphasizes that BP Batam's authority is administrative-public in nature in managing state land, not the authority to transfer land ownership rights to foreigners, thus becoming the main basis for realizing legal certainty regarding residential ownership by foreigners on BP Batam's HPL land (Harsono, 2021).

Based on the author's analysis, this legal case is accommodated through apartment units built on land with Right of Use status based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 29 of 2016 concerning Procedures for Granting, Releasing or Transferring Rights to Residential or Dwelling Houses by Foreigners domiciled in Indonesia.

Based on the author's analysis, Article 113 of the Minister of Agrarian Affairs Regulation No. 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights is a derivative of the Job Creation Law which states that the Right to Use is granted for a period of 30 (thirty) years, and can be extended for a period of (thirty) years, in Article 118 it states that after the term of the Right to Use and/or its extension ends.

Based on the analysis, the Government provides renewal of the Right of Use with a term of the same land area to the Right of Use holder with a time period that can be submitted no later than 2 (two) years after the end of the Right of Use period or the end of its extension.

In practice, this development often uses mechanisms to attract foreign buyers. The Indonesian Civil Code explicitly regulates land purchase agreements, with Article 1338 of the Civil Code as the basis for their validity. This principle, which ensures that the agreement does not conflict with law, public order, or morality, makes the agreement invalid and increases its legal force (Subekti, 2018; Adjie & Hafidh, 2021).

Specifically, within the law, legal certainty for foreign nationals in the context of residential ownership needs to be supported by contractual interpretation and the active role of notaries, developers, and banking institutions involved in the transaction. Notaries can ensure that the contract is drawn up fairly, transparently, and without prejudice to the foreign party. Furthermore, a refund guarantee if certain conditions are not met must be clearly stated in the contract clause. This is crucial to avoid legal loopholes that could be exploited by either party to commit default (Subekti, 2018; Adjie & Hafidh, 2021).

Contractual Arrangements and the Preventive Role of Notaries

The field material in the thesis records the use of option agreements and nominee-type arrangements in transactions involving foreign buyers. These practices arise from the gap between a foreign buyer's economic intention to control a property and the statutory prohibition on Hak Milik for foreigners. The same thesis, however,

concludes that nominee arrangements cannot be treated as a legal route to circumvent the nationality principle because their substance may conflict with Articles 21 and 26 of the UUPA and the validity of the requirements of agreements under the Civil Code. The relevant analytical distinction is therefore between documenting a legal transaction based on Hak Pakai and using contractual devices to disguise prohibited land ownership.

The contract is carried out in accordance with the theory of legal certainty put forward by Gustav Radbruch which provides clarity not only on justice but also on benefits, and provides the perspective that agreements or contracts must be based on the principle of justice agreed upon by all parties involved.

Based on the author's research, there is no explicit prohibition against foreign nationals acquiring residential ownership. However, because it is not explicitly regulated, this situation creates legal uncertainty. This contradicts Lawrence M. Friedman's legal system theory, which emphasizes that law is not understood solely as written norms but as a system consisting of various interrelated and interdependent elements.

Implementation of Residential Ownership by Foreigners domiciled in Indonesia on land with Management Rights of the Batam Business Entity

According to researchers, the general public generally assumes that anything that has been written has legal force or strong and binding evidence so that people find it difficult to sue if the agreement is carried out fraudulently. In its validity, the nominee agreement is clearly unjustifiable and this agreement is no longer considered to exist, because it violates the law and the principles of agreements and the principles of nationality contained in UUPA No. 5 of 1960. As regulated in Article 1315 and Article 1340 of the Civil Code and based on the explanation above in the provisions of Article 1319 of the Civil Code, it contains implicitly two forms of agreements, namely agreements that have a special name (*nominaat*) and agreements that are not known by special naming (*innominaa*) (Adjie, 2022; Santoso, 2022).

Article 21 of the UUPA emphasizes that land ownership rights in Indonesia can only be held by Indonesian citizens. This is reinforced by Article 26 paragraph (2) of the UUPA, which states that legal acts that intentionally transfer land ownership rights to foreigners, whether through sale, purchase, or any other means for such purposes, will be deemed null and void (Adjie, 2022; Santoso, 2022).

The role of notaries and Land Deed Officials (PPAT) in implementing option agreements is also crucial. In some cases, notaries merely act as document certifiers without conducting legal due diligence on the substance of the agreements. This undoubtedly poses significant legal risks, especially for foreign nationals who lack a comprehensive understanding of the Indonesian legal system. As public officials, notaries should be required to explain in detail to the parties the legal boundaries of ownership, the status of land rights, and the legal implications of the option agreements they sign. However, in reality, this practice is not always implemented consistently. There have even been cases where option agreements have been used to disguise sales transactions by foreign nationals, which legally violates the principle of nationality and the provisions of the Basic Agrarian Law (UUPA) (Adjie, 2022; Santoso, 2022).

2. Implementation in Batam

Implementation Stages

- Implementation in Practice
- In practice, the implementation of this legal regulation has had several positive impacts, namely:
- Increase the attractiveness of foreign investment in the property sector of Batam City.

Implementation in Practice

- Encourage the growth of residential areas, apartments and flats.
- Optimizing the use of BP Batam Management Rights land as a state asset.
- Supporting Batam's economic growth as a Free Trade Area and Free Port.

However, its implementation has not yet been fully optimal because there are still various administrative and institutional obstacles.

Implementation Obstacles

The results of this study show that several obstacles are still found in the implementation of these legal regulations, including:

- Dualism of authority between BP Batam, the Land Office, and the Batam City Government which causes the service process to take longer.
- Complex administrative procedures, because each granting of rights must go through the land allocation process from BP Batam before being processed by the Land Office.

- The regulatory harmonization between national land policies and land management policies in Batam is not yet optimal.
- Legal certainty for foreign investors is still influenced by changes in policies regarding the use of land with Management Rights.
- Coordination between agencies in land services still needs to be improved so that the licensing process becomes faster, more transparent and efficient.

Based on the author's analysis, the research findings on Gustav Radbruch's theory of legal certainty emphasize that the law must have clear norms to serve as guidelines for the public in implementing legal regulations regarding residential ownership by foreigners on land with Management Rights. Management Rights have a clear legal basis through the Basic Agrarian Law (UUPA), Government Regulation Number 18 of 2021, and implementing regulations in the land sector. However, legal certainty is not fully realized if there are still differences in interpretation or overlapping authority between agencies.

Thus, the implementation of legal regulations for foreigners' residential ownership of land under Management Rights at the Batam Free Trade Zone Authority (BP Batam) is essentially in accordance with the national legal framework. However, its effective implementation still requires streamlined procedures, regulatory harmonization, digitization of land services, and strengthened coordination between BP Batam, the Land Office, the Regional Government, and other relevant agencies to create legal certainty, legal protection, and a conducive investment climate.

In practice, foreigners cannot obtain land ownership rights, but can only own a home through a Right of Use granted on land with a Management Right or through ownership of an apartment unit in accordance with statutory provisions. Therefore, the mechanism for residential ownership in Batam always involves two institutions: the Batam Free Trade Zone Authority (BP Batam) as the holder of the Management Right and the Batam City Land Office as the agency that issues and registers land rights.

Based on the research results, the granting of rights begins with the approval of the Batam Free Trade Zone Authority (BP Batam) for the use of the land parcel located within the Management Rights (Hak Pengelolaan). After obtaining this approval, the applicant submits a Right of Use (Hak Pakai) application to the Land Office for registration in accordance with applicable regulations. A Right of Use (Hak Pakai) certificate is then issued, which serves as the legal basis for foreigners to occupy the residence.

Based on research results and field practice, several obstacles remain, including: Dualism of authority between BP Batam and the Land Office. The division of authority between BP Batam as the holder of Management Rights and the Land Office as the issuer of land rights often results in lengthy administrative processes because they require approval from both agencies. Applicants must fulfill various administrative requirements, including immigration status, land use approval from BP Batam, and the rights registration process at the Land Office. This condition often causes delays in completing applications.

Based on research, in several cases, differences in interpretations regarding the procedures for granting rights to land under Management Rights (Hak Pengelolaan) are still found, thus requiring policy synchronization between the Batam Free Trade Zone Authority (BP Batam), the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), and other relevant agencies. Supervision still needs to be strengthened to prevent residential ownership from being used as a means of legal smuggling (nominee arrangement), namely the use of the name of an Indonesian citizen to control land that is substantively controlled by a foreigner. This practice contradicts the principle of nationality in Indonesian agrarian law and has the potential to give rise to legal disputes.

Based on the author's research findings from a legal systems theory perspective, the implementation of regulations on residential ownership by foreigners in Batam is influenced by five factors: legal substance, law enforcement officials, facilities and infrastructure, the community, and legal culture. Theoretically, the existing regulations are generally sufficient, but their effectiveness is still influenced by institutional coordination, the quality of land administration services, and the level of compliance of the parties with applicable provisions.

Furthermore, based on the theory of legal certainty, the implementation of these regulations has provided a clear legal basis for the rights and obligations of foreigners, the Batam Free Trade Zone Authority (BP Batam), and the government. However, legal certainty will be further assured if there is regulatory harmonization between national land policy and land management policy in Batam to avoid differences in interpretation in practice.

Thus, the implementation of the legal authority for foreigners to own residential land under the Batam BP Management Rights has, in principle, been carried out in accordance with statutory provisions. However, its effective implementation still faces various administrative, institutional, and supervisory obstacles. Therefore, it is necessary to strengthen coordination between the Batam BP and the Land Office, simplify service procedures, increase

oversight of legal smuggling practices, and harmonize policies to create legal certainty, protect national interests, and create a conducive investment climate.

Table 3. Administrative flow for foreign residential ownership on BP Batam HPL

Stage	Responsible actor / legal function
1. Immigration eligibility	Foreign applicants demonstrate valid immigration documentation and compliance with applicable residence requirements.
2. Property eligibility	The residential object must satisfy the applicable type, use, value, and other regulatory requirements.
3. HPL land allocation/approval	BP Batam, as HPL holder, approves or allocates the use of the relevant land.
4. Deed and supporting documents	Notary/PPAT and related actors prepare and verify the legal documentation for the permitted transaction.
5. Land-right application and registration	The Land Office processes and registers the permitted land right, principally Hak Pakai, and issues the relevant certificate.
6. Continuation of right	Extension or renewal follows the statutory requirements and depends on continued eligibility and compliance.

3. Obstacles to Legal Certainty

The implementation of residential ownership by foreigners on the Management Rights (HPL) land of the Batam Business Entity (BP) basically has a clear legal basis, namely Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), Law Number 6 of 2023, Government Regulation Number 18 of 2021, and Regulation of the Minister of ATR/BPN Number 18 of 2021.

However, in practice, various obstacles remain that impact the effectiveness of granting rights to foreigners. These obstacles encompass legal, institutional, administrative, supervisory, socio-economic, and legal certainty aspects.

Legal Obstacles

Legally, the obstacle is related to the lack of complete harmonization between national land law and the special authority of BP Batam as the holder of the Management Rights. Although the law stipulates that the Right to Use can be granted on land with Management Rights, in practice, each grant of rights still requires the approval of BP Batam as the holder of the HPL. This condition causes the process of granting rights to be longer than granting Rights to ordinary state land. Furthermore, there are no technical regulations that specifically regulate the mechanism for granting Rights to foreigners on BP Batam HPL land, so there are still differences in interpretation among the authorized agencies.

Institutional barriers

Institutionally, ownership of a residence by foreigners involves several agencies, including:

- BP Batam as the holder of Management Rights;
- Batam City Land Office as the executor of land administration;
- Immigration Office as the party that ensures the legality of foreigners' residence permits;
- Notary/PPAT as an official who makes land deeds.

The large number of agencies involved makes coordination more complex. Differences in administrative procedures, document requirements, and service completion times often lead to lengthy rights issuance processes. Furthermore, the lack of an integrated service system between BP Batam and other agencies means the public and investors must handle various requirements separately.

Administrative Barriers

- From an administrative aspect, foreigners are required to fulfill various requirements, including: having a valid residence permit (KITAS or KITAP); fulfilling the provisions regarding the minimum value of the house according to government policy; obtaining land use approval from BP Batam; making a deed through a Notary/PPAT; and registering the Right of Use at the Land Office.

Foreign investors often find these numerous requirements quite complex, reducing the efficiency of the residential property acquisition process, requiring a relatively long time and considerable expense. Changes in a

foreigner's residence permit status can also impact the continuity of their residential property rights, necessitating regular administrative updates.

Obstacles to Supervision

Oversight of home ownership by foreigners still faces various obstacles. One frequently encountered issue is the practice of nominee arrangements, which use the name of an Indonesian citizen as the formal owner of the land, while control and economic benefits are enjoyed by a foreigner. This practice contradicts the principle of nationality in the Basic Agrarian Law (UUPA) because it substantively transfers control of the land to an unauthorized party. If not optimally monitored, this practice has the potential to give rise to legal disputes and reduce legal certainty in the land sector. It also violates Indonesian agrarian law and has the potential to give rise to legal disputes if disputes arise in the future. Furthermore, oversight of changes in residence permit status and transfer of rights is still not optimally integrated between the Batam BP, the Land Office, and the Immigration Office.

Social and Economic Barriers

The presence of foreigners residing in Batam has had a positive impact, increasing investment and growth in the property sector. However, the increased demand for housing also has the potential to drive up land and house prices, reducing affordability for local residents.

In addition, there are still concerns among the public that home ownership by foreigners will reduce the opportunities for Indonesian citizens to obtain housing, even though legally foreigners only obtain the Right of Use and not the Right of Ownership.

Although legally foreigners only obtain the Right of Use, public perception regarding land control by foreign parties remains a challenge in policy implementation.

Obstacles to Legal Certainty

There are still regulatory changes in the land and investment sectors that require adjustments in their implementation. These policy changes sometimes create uncertainty for foreign investors and property businesses, as they must adjust to applicable administrative procedures. Furthermore, the authority of the Batam Freehold Land Authority (BP Batam) as the holder of the Land Use Permit (HPL) also necessitates harmonization between national land policies and land management policies in Batam to avoid differences in interpretation in practice.

According to the author's analysis, another obstacle is the frequent changes in land and investment policies, requiring businesses and investors to readjust existing administrative procedures. In practice, the special authority of the Batam Free Trade Zone Authority (BP Batam) as the holder of the Management Rights (Hak Pengelolaan) necessitates ongoing harmonization between national policies and land management policies in Batam. If this harmonization is not optimally achieved, legal uncertainty will arise in granting Hak Pakai (Usage Rights) to foreigners.

Based on the author's analysis, the main obstacle to foreigners' residential ownership of land under BP Batam's Management Rights is not due to a lack of legal basis, but rather to the suboptimal synchronization of regulations, inter-agency coordination, and oversight systems. BP Batam's status as a Management Rights holder with unique characteristics makes the rights-granting procedure more complex than in other regions in Indonesia.

Therefore, regulatory harmonization between the central government and the Batam Free Trade Zone Authority (BP Batam) is needed, as are streamlining service procedures through an integrated electronic-based service system, improving inter-agency coordination, and strengthening oversight of nominee practices. These steps are expected to provide legal certainty, improve the investment climate, while maintaining the principle of nationality and protecting the interests of the Indonesian people in land ownership.

4. Regulatory and Implementation Solutions

Legal Arrangement Solutions

Harmonization of Legislation

To address regulatory disharmony, the government needs to harmonize regulations governing land rights, Management Rights (HPL), and residential ownership by foreigners. This harmonization must involve the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the Batam Free Trade Zone Authority (BP Batam), local governments, and relevant ministries to avoid overlapping norms and authorities. This harmonization aims to create alignment between Law Number 5 of 1960 concerning Basic Agrarian Regulations, Law Number 6 of 2023, Government Regulation Number 18 of 2021, and other implementing regulations to create legal certainty regarding the mechanism for granting Use Rights to foreigners on BP Batam Management Rights land.

Establishment of Special Regulations Concerning BP Batam's Management Rights

The government needs to develop specific regulations governing foreigners' residential ownership on land under the Batam Free Trade Zone Authority (BP Batam). These regulations can take the form of a Government Regulation, a Regulation of the Minister of ATR/BPN, or a Regulation of the Head of BP Batam, all developed in an integrated manner. These specific regulations should at least outline the legal requirements, procedures for granting rights, timeframes, mechanisms for extending and renewing rights, transfer of rights, supervision, dispute resolution, and revocation of rights if they no longer meet statutory requirements.

Improvement of the Rights Granting Mechanism

To ensure legal certainty, it is necessary to develop a Standard Operating Procedure (SOP) that details the mechanism for granting Right of Use (Right of Use) over land under BP Batam Management Rights. The SOP must explain the administrative stages, document requirements, service deadlines, the authority of each agency, and the resolution mechanism for any administrative obstacles. With standardized procedures, the granting of rights will be more transparent and accountable, and will reduce differences in interpretation among land officials, notaries, Land Deed Officials (PPAT), and property developers.

Strengthening Institutional Coordination

A more effective coordination mechanism is needed between the Batam Free Trade Zone Authority (BP Batam), the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN), the Batam City Land Office, local governments, and other relevant agencies. This coordination can be achieved through a permanent coordination forum, the development of joint guidelines, information system integration, and a clearer division of authority. Strengthening institutional coordination will accelerate land administration services, reduce the potential for overlapping authority, and increase the effectiveness of policy implementation.

Strengthening Legal Certainty

The government needs to guarantee legal certainty for foreigners who meet the requirements by providing clarity regarding the status of rights, time period, rights and obligations of rights holders, mechanisms for extension, renewal, termination of rights, and legal protection in the event of policy changes. This legal certainty will increase the confidence of foreign investors without reducing the principle of state control over land as regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the Basic Agrarian Law.

Implementation Solution

Optimizing Inter-Agency Coordination

Implementing residential ownership for foreigners requires effective coordination between the Batam Free Trade Zone Authority (BP Batam), the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the Land Office, the Immigration Office, local governments, notaries, Land Deed Officials (PPAT), and property businesses. Therefore, it is necessary to establish an integrated service-based coordination system through data integration and information exchange between agencies to ensure faster, more efficient, and more transparent administrative processes.

Simplification of Administrative Procedures

The government needs to simplify service procedures through digitizing land services, implementing electronic land services, and reducing non-value-added administrative steps. Simplifying procedures will improve service efficiency, lower transaction costs, expedite the issuance of land titles, and enhance the ease of doing business in the property sector.

Improving Legal Socialization and Education

The government, along with the Batam Free Trade Zone Authority (BP Batam) and the Land Office, needs to regularly disseminate information regarding foreign home ownership regulations to notaries, landowners (PPAT), developers, government officials, and foreign investors. This outreach aims to improve understanding of the regulations and minimize administrative errors and differing legal interpretations.

Strengthening the Supervisory System

Oversight of foreign home ownership needs to be carried out in an integrated manner through data integration between the Batam Free Trade Zone Authority (BP Batam), the ATR/BPN (National Land Agency), the Directorate General of Immigration, local governments, and other relevant agencies. Furthermore, the government needs to tighten oversight of nominee agreement practices through document inspections, administrative audits, and strict law enforcement against any violations that violate national agrarian law.

Strengthening Dispute Resolution Mechanisms

To reduce the potential for legal disputes, a fast, simple, and low-cost dispute resolution mechanism is needed, including land mediation, administrative settlement, and even court action if mediation fails to reach an

agreement. Furthermore, the government needs to develop dispute resolution guidelines that provide legal certainty for all stakeholders.

Consistency of Government Policy

To create a conducive investment climate, the government needs to maintain consistency in land and investment policies. Any regulatory changes should be accompanied by clear transitional provisions, public outreach, and an evaluation of the policy's impact.

CONCLUSION

The legal regulations for foreigners' residential ownership of BP Batam's Management Rights land have a fairly comprehensive legal basis, namely Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), the Job Creation Law, Government Regulation Number 18 of 2021, and Regulation of the Minister of ATR/BPN Number 18 of 2021. However, in practice, several obstacles are still encountered, such as coordination between BP Batam and ATR/BPN, complex licensing processes, and the need for policy harmonization to provide legal certainty for foreign investors without neglecting national interests.

The implementation of legal regulations for foreigners' residential ownership of land under Management Rights at the Batam Free Trade Zone Authority (BP Batam) is essentially in accordance with the national legal framework. However, its effective implementation still requires streamlined procedures, regulatory harmonization, digitization of land services, and strengthened coordination between BP Batam, the Land Office, the Regional Government, and other relevant agencies to create legal certainty, legal protection, and a conducive investment climate.

The implementation of residential ownership by foreigners on the Management Rights (HPL) land of the Batam Business Entity (BP) still faces various obstacles that affect the effectiveness of granting rights to foreigners, namely legal obstacles, institutional obstacles, administrative obstacles, supervisory obstacles, social and economic obstacles, and obstacles to legal certainty. However, the main obstacle to residential ownership by foreigners on BP Batam Management Rights land is not caused by the absence of a legal basis, but rather by the suboptimal synchronization of regulations, coordination between agencies, and the supervisory system.

Recommendations

1. The government, particularly the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), needs to refine and harmonize laws and regulations regarding residential ownership by foreigners on land with Management Rights (HPL), especially in special areas such as BP Batam. This harmonization is necessary to avoid overlapping authority and to provide legal certainty for all parties.
2. The Batam Business Agency (BP) is advised to develop technical regulations or implementation guidelines that specifically address the mechanisms for granting land rights, permits, supervision, and procedures for foreigners' residential ownership of land with Management Rights. These regulations are expected to create transparent and effective land services and provide legal certainty for investors and the public.
3. The government, the Batam Free Trade Zone Authority (BP Batam), and the Ministry of ATR/BPN need to strengthen coordination, enhance oversight, and develop a clearer and more integrated implementation mechanism for foreigners' residential ownership on land with Management Rights. These steps are expected to overcome implementation barriers, improve service effectiveness, and provide legal certainty for all stakeholders.

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