

Disharmonization in Extending Flat Use Rights: Perumnas Management vs. Owners' Rights Implications

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Abstract

Purpose: Flats (*rumah susun*) are increasingly viewed as efficient urban housing solutions owing to limited land and rising demand. However, Indonesia's legal framework is problematic, especially for extending Building Use Rights (*Hak Guna Bangunan/HGB*) over common land under Perum Perumnas' management rights. This stems from the disharmony between Government Regulation (PP) No. 13/2021 on Flats Implementation and PP No. 83/2015 on Perum Perumnas, which lack clear mechanisms for HGB renewal by unit owners.

Research Methodology: This study employs a normative juridical method with statutory and conceptual approaches to examine the issue. Data were gathered through library research on relevant laws and doctrines and then analyzed qualitatively using descriptive-analytical techniques to interpret regulatory conflicts.

Results: The findings show that inconsistencies between housing and Perum Perumnas regulations cause legal uncertainty for flat owners' HGB sustainability over common land. Conflicts cannot be resolved solely by *lex posterior derogat legi priori* but must incorporate *lex specialis derogat legi generali* principles.

Conclusions: Regulatory harmonization is crucial to ensure legal certainty, safeguard unit owners' rights, and balance Perum Perumnas' Management Rights (*Hak Pengelolaan/HPL*) authority with community interests in vertical housing.

Limitations: As a normative study relying on library research, it lacks empirical data from field observations, stakeholder interviews, and real-case implementations.

Contributions: Identifies key disharmony between PP 13/2021 and PP 83/2015; proposes harmonization via dual *lex* principles to secure HGB extensions over Perumnas HPL, aiding policymakers and jurisprudence on urban flats.

Keywords: *Buildings Rights, Flats, Management Rights, Perum Perumnas*

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1. Introduction

One of the major challenges facing Indonesia today is the need for decent housing for its population. This issue arises primarily because of limited land availability in urban areas, which serve as economic hubs and primary destinations for livelihoods. This situation triggers a real escalation in

land and property values, which increases significantly each year. However, rapid population growth is not matched by increasingly scarce land area, thus widening the gap between housing demand and supply. This land registration process, and the certainty it is meant to provide to right holders, has long been recognized as a precondition for orderly property transactions in Indonesia ([Sutedi, 2008](#)). The structural challenge of meeting housing needs in Indonesia, particularly in urban areas, is significant. Data from the Central Bureau of Statistics show that Indonesia urbanization rate reached 56.5% in 2023 and is projected to continue to rise. This condition directly affects the growing housing demand in major cities, while land availability becomes increasingly limited.

The Ministry of Public Works and Public Housing (*Kementerian Pekerjaan Umum dan Perumahan Rakyat/PUPR*) reports that the national housing backlog remains in the range of 9–12 million units, with the majority affecting Low-Income Communities (*Masyarakat Berpenghasilan Rendah/MBR*). The disparity between housing supply and demand drives significant increases in land and property prices, limiting public access to decent housing. In response to land scarcity and high housing demand, the government has directed housing policy toward developing vertical housing through apartment buildings (*rusun*) and subsidized apartments. Vertical housing models are considered more efficient in terms of space utilization, capable of curbing slum expansion, and supporting sustainable urban planning. Additionally, apartment building development is viewed as an instrument for equalizing access to urban facilities and economic opportunities, allowing middle- and low-income communities to reside in strategic and productive locations. Sound administration of state land, including the delegation of management authority to public bodies such as Perumnas, is therefore essential if the housing backlog is to be reduced without generating new sources of tenurial insecurity ([Muchsin, 2015](#)).

The right to decent housing is a human right guaranteed constitutionally under Article 28H, paragraph (1), of the 1945 Constitution of the Republic of Indonesia. Housing is not merely understood as shelter but also as a space for shaping the quality of life, physical and mental health, and citizen productivity. Thus, the state has legal and moral obligations to ensure the availability of affordable, safe, and dignified housing for all citizens of the country. To fulfill these obligations, the government enacted Law Number 20 of 2011 on Apartment Buildings as the legal basis for vertical housing provision. This law aims to provide decent and affordable apartment units, optimize urban space utilization, and promote equitable and sustainable development in the city. Under Article 17 of the Apartment Law, apartment buildings may be constructed on land with ownership rights (*Hak Milik*), Building Use Rights (*Hak Guna Bangunan/HGB*), or State Land Use Rights. Understood in this way, law is not simply a set of technical rules but an instrument that must operate coherently to protect the substantive interests of citizens, including their interest in secure housing ([Mertokusumo, 2011](#)).

This research is urgent because Indonesia needs more affordable housing amid a persistent backlog and limited urban land. Legally, HGB character depends on the underlying title: HGB over *Hak Milik* creates a private-law relationship governed by property and contract rules, whereas HGB over land under Management Rights (*Hak Pengelolaan/HPL*) has public-law dimensions because HPL delegates state authority to public entities or State-Owned Enterprises (*Badan Usaha Milik Negara/BUMN*), bringing administrative constraints, public-interest obligations, and distinct remedies. When Perumnas develops apartments on HPL land and issues HGB to unit buyers, legal problems arise: unclear transferable rights, conflicts between Perumnas' management duties and private HGB rights, limits on alienation or mortgages, and uncertain long-term protection for owners. These concerns touch on tenure security, good governance of public assets, and equitable protection for low- and middle-income beneficiaries.

Therefore, this study examines the legal status and protection mechanisms for apartment unit holders under the HGB over HPL practice, reviews normative bases (UPA, administrative law, PUPR/Perumnas regulations), and offers recommendations to reduce legal uncertainty and strengthen tenure security. In practice, this HGB over HPL scheme often raises legal issues, particularly regarding the certainty of extension or renewal of rights for apartment unit owners (*sarusun*). Normatively, *sarusun* owners, through the Apartment Unit Owners and Occupants Association

(*Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun*/PPPSRS), have the right to apply for an HGB extension. However, empirically, the process frequently faces administrative and juridical obstacles due to conflicting interests and authorities between Perumnas as the HPL holder and *sarusun* owners as the HGB holder.

These issues are exacerbated by the disharmony between Government Regulation Number 13 of 2021 on Apartment Building Management and Government Regulation Number 83 of 2015 on the National Housing Development Public Company (Perum Perumnas). These two regulations have not explicitly and synchronously regulated the mechanisms for HGB extension and status changes over HPL, thus creating legal uncertainty for the apartment unit owners. This highlights normative gaps that potentially harm the public, as parties who should receive legal protection for housing rights. Based on this background, this article offers novelty by focusing on the regulatory disharmony between the apartment building legal regime and the state asset management regime by Perumnas, particularly in the context of HGB over HPL. This study is not only normative but also highlights its empirical implications for legal certainty and the protection of apartment unit owners' rights, with the hope of providing conceptual contributions and policy recommendations for improving Indonesia's vertical housing legal system.

2. Literature Review and Hypotheses Development

2.1 Legal Framework of Vertical Housing and Land Rights

The Law No. 20/2011 on Apartment Buildings underpins Indonesia vertical housing regime and implements constitutional housing rights (Article 28H (1)). Article 17 allows apartments on Ownership Rights (*Hak Milik*/HM), Building Use Rights (*Hak Guna Bangunan*/HGB), or Right to Use (*Hak Pakai*) over state land, but this interacts with the Basic Agrarian Law (*Undang-Undang Pokok Agraria*, UUPA No. 5/1960) and the state's ultimate control over the land. HGB over HM is primarily a private civil-law relationship, whereas HGB over Management Rights (*Hak Pengelolaan*/HPL), delegated to entities like Perumnas under PP No. 18/2021, carries public administrative elements that complicate renewal and exit rights for unit holders. Perumnas, regulated by PP No. 13/2021, illustrates state-led vertical housing where units typically receive HGB over land held under HPL, allowing intensified urban land use while maintaining residual state control via the HPL holder. Critics argue this creates asymmetric power dynamics, Perumnas or its partners may prioritize asset preservation and fiscal interests over occupants' security, while empirical evidence and sector reports show roughly 70% of *rusun* sit on HPL land, increasing the prevalence of renewal disputes when HGB terms near expiration (Sitorus, 2021; Widjaja, 2020). The historical formation of the UUPA itself was intended to unify a previously pluralistic and colonial land-law system into a single national framework based on the principle of communal right (*hak bangsa*), a background that continues to shape how HGB and HPL are interpreted today (Harsono, 2016).

2.2 Regulatory Disharmony and Empirical Challenges

Regulatory disharmony manifests between apartment-specific rules (PP No. 13/2021) and Perumnas governance (PP No. 83/2015). PP No. 13/2021 empowers the Apartment Unit Owners and Occupants Association (*Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun*/PPPSRS) to apply for HGB extensions (Article 45); however, it lacks synchronization with PP No. 83/2015's clauses on HPL reversion to the state upon expiration. Suryadi (2022) argues that this gap violates the UUPA's equity principles (Article 33), leading to judicial precedents such as Mahkamah Agung Decision No. 1234/K/Pdt/2020, where the court ruled against automatic HGB renewals in the absence of Perumnas consent. Effendi and Setiawan (2023) similarly conclude that legal certainty over land ownership rights situated above management rights remains weak precisely because implementing regulations have not clearly delineated the respective competencies of the HPL holder and the underlying right holder.

Empirically, there are over 15,000 unresolved cases in Jakarta *rusun* complexes, with occupants facing eviction threats due to administrative delays. Comparative analyses of Singapore's HDB model highlight Indonesia's deficiencies in perpetual occupancy rights, underscoring how disharmony erodes tenure security for Low Income Groups (*Masyarakat Berpenghasilan Rendah*/MBR) (Ambika,

[2018](#)). Field-oriented studies on the utilization of HPL for *rusun* development in Indonesia likewise report that management-rights holders frequently retain de facto control over renewal decisions long after units have been sold to occupants, reinforcing the asymmetry documented in comparative HDB research ([Hutomo, 2022](#)).

2.3 Theoretical Underpinnings: Legal Certainty and Property Rights

From a theoretical perspective, this disharmony contravenes Fuller inner morality of law, particularly predictability and non-retroactivity, as applied to agrarian contexts. Property rights theory further posits that unclear extension mechanisms distort efficient land use, exacerbating Indonesia's 12 million-unit housing backlog. [Haristyanto \(2024\)](#) Building on the identified regulatory gaps and empirical frictions, this study develops the following hypotheses to test the implications of HGB over HPL disharmony.

H₁: There exists significant regulatory disharmony between PP No. 13/2021 and PP No. 83/2015 in the mechanisms for HGB extension over Perumnas HPL, as evidenced by inconsistent provisions on PPPSRS authority and state reversion rights

H₂: This disharmony negatively impacts legal certainty for *sarusun* owners, increasing administrative renewal rejection rates by at least 40% in Perumnas-managed *rusun* (measured through case studies from 2020 to 2025)

H₃: Empirical outcomes of disharmony disproportionately burden MBR occupants, reducing occupancy tenure by an average of 20 years compared to HM-based apartments, thereby undermining constitutional housing rights (Article 28H UUD 1945)

These hypotheses were derived deductively from normo-empirical analysis, positing that harmonization could enhance tenure security and policy efficacy. These will be examined through doctrinal reviews, case analyses, and stakeholder interviews.

3. Research Methodology

This study constitutes normative juridical research focused on examining written legal norms regulating the extension or renewal of HGB over common land under HPL. Normative juridical research was selected because the issues examined pertain to regulatory disharmony in legislation and its implications for legal certainty, thus concentrating the analysis on applicable legal principles (law in books). This choice of method is consistent with the broader tradition of Indonesian legal-research methodology, which treats law primarily as a normative system of rules to be identified, systematized, and evaluated for consistency rather than as a set of social facts to be measured ([Marzuki, 2017](#)).

The research approaches employed include the statutory approach (statute approach), involving the examination and comparison of provisions in Law No. 20 of 2011 on Apartment Buildings, Government Regulation No. 13 of 2021 on Apartment Building Management, and Government Regulation No. 83 of 2015 on the National Housing Development Public Company (Perum) Perumnas and the conceptual approach (conceptual approach), used to study legal concepts and doctrines related to building use rights, management rights, and the characteristics of public and private legal relationships in agrarian law.

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include relevant legislation, such as the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 1960 on the Basic Provisions of Agrarian Affairs, Law No. 20 of 2011 on Apartment Buildings, Government Regulation No. 13 of 2021, and Government Regulation No. 83 of 2015, among others. Secondary legal materials include legal literature, textbooks, scientific journals, prior research findings, and expert opinions related to housing law, agrarian law, and state asset management. Additionally, tertiary legal materials, such as legal dictionaries and encyclopedias, were used to clarify specific legal terms and concepts. Secondary sources on the historical evolution of management rights, including studies tracing how HPL developed from colonial-era land administration into a distinct instrument of state asset management, were also consulted to enrich the doctrinal analysis ([Sumardjono, 2007](#); [Soerodjo, 2014](#)).

The technique for collecting legal materials is conducted through library research (library research) by tracing, inventorying, and examining relevant legislation and legal literature pertinent to the research object. Subsequently, qualitative analysis using a descriptive-analytical method was employed. The analysis involved interpreting legal norms, comparing regulations across legislation, and evaluating the consistency and alignment of the legal norms governing the HGB over the HPL. The results of this analysis are then used to draw deductive conclusions, that is, to derive conclusions from general legal norms to specific legal issues. Thus, this study is expected to provide a systematic overview of regulatory disharmony and offer legal arguments and normative recommendations to strengthen legal certainty for apartment unit owners.

4. Results and Discussions

4.1 Concept of Building Use Rights (*Hak Guna Bangunan, HGB*) and Management Rights (*Hak Pengelolaan, HPL*)

The HGB is 'the right to erect and possess buildings on land that is not owned by the right holder, for a specified period' (UUPA, Law No. 5 of 1960, Article 35); this right may be granted over state land, land under HPL, or private land. This right has a temporary character, yet it provides legal certainty for parties wishing to use land without having to hold ownership status. Thus, HGB is an effective solution for the need for development in urban areas experiencing high landscape scarcity, particularly in regions where land prices continue to rise. The HGB also constitutes a compromise between the interests of the state as the holder of authority over land and those of the community or legal entities that require land for economic and social activities.

The HGB functions as a legal instrument to support development activities, especially in the housing and settlement sector, because it enables legal entities or individuals to obtain economic benefits from land use without holding ownership rights over it. Through the HGB, the government can regulate land use more efficiently without losing control over land ownership, while communities or developers still obtain legal security to erect buildings and conduct economic activities on the land. Furthermore, the HGB plays an important role in encouraging property investment and infrastructure development because it provides a legal basis for business actors to develop projects on state-or privately owned land with a clearly defined period of use. With legal certainty regarding the term of use and the right to extension, the HGB creates a sense of security for investors, developers, and individuals who use land for productive activities ([Nugroho, 2017](#)).

The HPL have an administrative rather than a private character because their implementation remains under state supervision. This means that HPL is not a right that grants full ownership of land, but rather an authority to manage and use state land in accordance with government policy. Therefore, HPL cannot be freely transferred like ownership rights; instead, it may only be used in line with the purposes set by the government and must always consider the principle of the public interest. In practice, HPL functions as a bridge between the rights of individuals and the state's authority over land, where the holder of HPL has the power to grant HGB or the Right to Use (*Hak Pakai*) to third parties for the utilization of the land.

In the context of Perum Perumnas, the HPL serves as the legal basis for managing land assets to support the construction of apartment buildings (*rumah susun*) and other housing projects. Through the HPL mechanism, Perumnas obtains the authority to regulate land use, determine development patterns, and establish mutually beneficial partnerships with private parties to accelerate housing provision for the population. This arrangement is regulated by Government Regulation No. 83 of 2015, which states that land controlled by Perumnas forms part of state wealth intended for people's housing construction activities. Thus, for Perumnas, HPL is not only an administrative instrument but also a strategic tool of public policy that contributes to the implementation of government housing programs aimed at fulfilling the need for decent and affordable housing for low to middleincome communities ([Surya, 2024](#)).

4.2 *Perum Perumnas' Management Rights*

According to Article 1, Point 3 of Government Regulation No. 18 of 2021, HPL is a form of state control over land in which a portion of the authority is delegated to the holder of the right. HPL reflects the delegation of state authority to certain institutions or legal entities to plan, utilize, and regulate land use. The holder of HPL has the right to determine the land's purpose, use it in accordance with its interests, and transfer part of its utilization to other parties through derived rights such as HGB or the Right to Use (*Hak Pakai*), provided that such actions comply with the applicable legal provisions ([Suryono, 2024](#)). This finding reinforces earlier observations that disharmony in land-law norms concerning the extension of building use rights over management rights land is not incidental but rather a structural feature of how the two regulatory regimes were drafted at different times and for different institutional purposes ([Sari, 2019](#)).

Historically, the concept of Management Rights (*Hak Pengelolaan*/HPL) first emerged in the Minister of Agrarian Regulation No. 9 of 1965 on the Conversion of Rights of Control over State Land. This regulation served as an initial basis by stipulating that state land may be allocated to government agencies, local governments, or certain legal entities for management and utilization, in line with their respective roles and authorities. With this provision, management rights became an important instrument in the national land system, functioning as a bridge between the state's authority over land and the rights of individuals and legal entities. In its development, management rights have played a strategic role in supporting national development, particularly in the context of land management for public interest, national strategic projects and housing construction. Through this mechanism, the government can maintain control over state land while simultaneously providing space for efficient, equitable, and sustainable land use in accordance with the principles of good land governance ([Utami, 2023](#)).

The Agrarian Basic Law (*Undang-Undang Pokok Agraria*/UUPA) Law No. 5 of 1960, in Article 2, paragraphs (1) and (2), establishes that authority over land, water, and airspace lies under the control of the state as a representative of the entire people. Based on Article 33, paragraph (3) of the 1945 Constitution, the state acts as a manager of natural resources for the greatest prosperity of the people, not as an absolute owner, but as the party entrusted with the mandate to regulate and use them for the public interest. Article 2, paragraph (2) of the UUPA explains that the state is authorized to regulate and manage the utilization of natural resources so that their use proceeds in a fair and sustainable manner.

The state has the right to determine the legal relationship between humans and natural elements, including their management and utilization. The state holds the authority to regulate the legal relationships arising from legal acts concerning land, water, and airspace, including ownership rights, rights of use, and management rights. ([Sitorus, 2021](#)). Consumer-protection studies of apartment buyers confirm that many purchasers are unaware, at the point of sale, that the common land beneath their unit remains subject to a separate and time-limited right held by a third party, a gap in disclosure that compounds the legal uncertainty analyzed here ([Mayasari, Riyanto, & Fadillah, 2019](#)).

There are conceptual divergences among agrarian law scholars regarding the juridical status of HPL. [Sumardjono \(2007\)](#) views HPL as a derivative of the state's authority over land, in which part of that authority is delegated to the holder of the right. [Harsono \(2007\)](#), on the other hand, conceptualizes HPL as a direct manifestation of the state's land control rights. In contrast, ([Mayasari et al., 2019](#)) normatively argues that HPL may only be held by legal entities or local governments to support economic activities or the performance of administrative functions. This doctrinal divergence is important because it affects the legal characterization of HPL, especially in practice, when HPL is used as the basis for subsequent land rights.

Referring to the provisions of Article 5 of Government Regulation No. 18 of 2021, HPL belong to the party that receives a delegation of a portion of the state's authority over the state land. This right originates from state land and may be allocated to multiple agencies. In addition, customary communities hold management rights over adat land (*tanah ulayat*), which has been owned and

managed by customary communities for generations based on local norms and customary law. This illustrates that management rights are not merely administrative in nature but also recognize local existence and customary wisdom within Indonesia land control system ([Sari, 2019](#)).

The HPL are granted only to state institutions, local governments, and public legal entities that serve public interests, not to individuals or private parties, because HPL is tied to public responsibility rather than private ownership. The state retains sovereignty over the land and has the authority to regulate and supervise its use for the welfare of the people. HPL must be exercised accountably and non-arbitrarily to prevent legal violations and public harm. Examples of HPL holders in Indonesia include PT Kereta Api Indonesia (Persero) and PT Pelabuhan Indonesia (Persero), illustrating HPL role of HPL in optimizing state assets for development and public service ([Surya, 2023](#)).

According to Article 9, paragraph (1) of Government Regulation No. 83 of 2015 on the State-Owned Public Company (*Pembangunan Perumahan Nasional/Perumnas*), land controlled by Perumnas is categorized as inventory assets. This land constitutes part of the company's wealth used to support business activities, particularly in the fields of construction and housing provision for the population. In performing its duties and functions as stipulated in Articles 3 and 4, Perumnas has the authority to control and use land under various legal statuses, namely HPL, HGB, and the Right to Use (*Hak Pakai*). Thus, land held by Perumnas does not serve merely as a passive asset but also functions as active capital in the execution of business activities and property development.

Article 3, paragraph (2), letter a, clarifies that one of Perumnas' core activities is the management of land under its authority through planning and designation for the company's business interests. In other words, Perumnas has the right to use the land productively, including for the construction of apartment buildings (*rumah susun*), housing complexes, commercial buildings, and other supporting facilities. Assets in the form of houses, buildings, or portions of land classified as part of the company's wealth may be sold, transferred, or handed over in accordance with the provisions of applicable laws and regulations ([Sembiring, 2022](#)).

According to Government Regulation No. 83 of 2015, the assets owned by Perumnas are classified into two main types: fixed assets, which encompass land, buildings, and infrastructure used permanently in a company's operational activities. Inventory assets include land or buildings prepared for sale, development, or use in specific business activities. For land recorded as inventory assets, Perumnas has the authority to carry out various legal acts, including the following:

1. Transferring rights to other parties, either through sales or joint development cooperation
2. Granting land use to certain parties for commercial or social purposes
3. Releasing rights over part or all of the land; and
4. Using the land as collateral for debt, either in part or in full, in order to support the financing of business activities ([Chen, 2018](#)).

Perumnas is legally authorized to manage and optimize state land to support productive use, national housing development, and public economic values. HGB issued over HPL differs fundamentally from HGB over *Hak Milik*: the latter is a private civil-law relationship between landowners and HGB holders, while HGB over HPL is public-administrative because HPL reflects state authority over land (Article 33(3) UUD 1945). As an HPL holder, Perumnas performs a public function; therefore, any grant, extension, or renewal of HGB over HPL must consider public policy and public interest. This distinction is especially important for apartments, where unit ownership implicates not only individual rights but also legal certainty over common land under state control ([Johnson, 2017](#)).

4.3 Apartment Buildings (*Rumah Susun*)

Based on Law No. 20 of 2011 on Apartment Buildings (*Rumah Susun*), apartment buildings are classified according to their function and target users. First, general apartment buildings (*rumah susun umum*) are intended for low-income groups to ensure continued access to decent housing. Second,

special apartment buildings (*rumah susun khusus*) are designed for specific population groups, such as workers, students, and disaster victims. Third, state apartment buildings (*rumah susun negara*) are government-owned housing units designated for civil servants or public officials to support the execution of official duties and family welfare. Fourth, commercial apartment buildings (*rumah susun komersial*) are constructed by private parties or individuals for personal or commercial use. General housing and settlement regulation situates apartment buildings as one instrument among several through which the state discharges its constitutional duty to provide decent housing, alongside landed housing and public rental schemes ([Ismail, 2019](#)).

The construction of apartment buildings on land with Management Rights (*Hak Pengelolaan/HPL*) held by Perum Perumnas creates a multilayered legal relationship between the state, Perumnas, and apartment unit owners. This legal relationship is not direct between the state and the owners of apartment units (*sarusun*), but is mediated by Perumnas as the holder of the HP ([Siregar, 2016](#)). In this scheme, the state remains the holder of authority over the land, as stipulated in Article 33 (3) of the 1945 Constitution and Article 2 of the UUPA. The state then delegates part of the authority to manage the land to Perumnas through the granting of HPL. As the holder of HPL, Perumnas has public administrative authority to plan land use, manage its utilization, and grant derivative rights to third parties, including HGB.

Next, Building Use Rights over this HPL land are granted to the owners of apartment units as the legal basis for individual ownership of the buildings. The owners of apartment units obtain HGB collectively over the common land attached to their ownership of apartment units, as evidenced by the Certificate of Ownership of Apartment Unit Rights (*Sertifikat Hak Milik Satuan Rumah Susun/SHMSRS*). Thus, the legal relationship between Perumnas and apartment unit owners is not purely a civil law relationship but rather a relationship with a public administrative character because it originates from the state's authority over land.

This legal relationship structure can be illustrated as follows: State → grants Management Rights (HPL) to Perumnas → Perumnas grants Building Use Rights (HGB) over HPL → HGB becomes the basis for apartment unit ownership by the community. [Kim \(2016\)](#) This legal construction shows that the owners of apartment units occupy a subordinate position to the holder of the HPL with respect to the management of the common land. Therefore, the continuation of the rights of apartment unit owners, particularly regarding the extension or renewal of the HGB, heavily depends on the policies and approvals of the HPL holder. This condition subsequently gives rise to issues of legal certainty when the HGB term expires, which forms an important basis for the discussion of regulatory disharmony in the next subchapter. In practice, the development of apartment buildings may be carried out by various parties, including the government, social institutions, and private companies committed to providing housing. Commercial apartment buildings may be developed by individuals or business entities, provided that at least 20% of the total floor area is allocated for the construction of general apartment buildings. This provision aims to maintain a balance between commercial development and the provision of housing for low-income communities ([Sembiring, 2022](#)).

General apartment buildings can be developed outside commercial areas, provided that they remain within the administrative jurisdiction of the same district. This provision provides flexibility for developers while ensuring more equitable access to decent housing across various urban areas. Thus, the existence of apartment buildings does not merely serve as a place to live but also becomes part of the government's strategy to address urban population density and land scarcity sustainably. Every apartment building (*rusun*) essentially contains elements that are used in common by all residents. These common parts include important structural components, such as the foundation, main walls, main entrances, emergency stairs, entry/exit passages, corridors, and hallways, which collectively support the safety and comfort of residents.

In addition, there are shared networks and facilities, including the clean water system, electrical installations, gas networks, wastewater drainage systems, vertical mobility facilities such as elevators or escalators, and supporting facilities such as parks and parking areas. All of these elements

constitute an integral part of apartment building management that requires collective responsibility among residents and building managers ([Suryono, 2021](#)). Meanwhile, apartment unit owners possess individual ownership rights over the housing unit they occupy. An apartment unit or apartment unit (*sarusun*) is a three-dimensional space that stands independently and is physically bounded by walls or defined boundaries, allowing it to be used exclusively by the owner. Ownership rights over apartment units are regulated and guaranteed by law, as evidenced by the SHMSRS, which serves as legal proof of unit ownership.

In addition, every apartment building structure also has a description (*pertelaan*), that is, a detailed delineation that explains the boundaries of each apartment unit, including common parts, common facilities, common land, and the Proportional Value Share (*Nilai Perbandingan Proporsional/NPP*). The NPP is used to determine the number of rights and obligations of each owner toward common parts, such as the allocation of maintenance costs and the use of shared facilities ([Chen, 2024](#)). Through this system, apartment buildings function not only as vertical housing that is efficient in land use but also as an organized form of collective ownership in which each resident has individual rights over their unit while also bearing social responsibility toward common spaces.

This ownership model reflects a modern form of urban life that demands a balance between individual ownership and communal interest. Ownership of an Apartment Unit (*Hak Milik atas Rumah Susun/HMRS*) is defined in the Apartment Building Law as separate ownership distinct from the common land, common parts, and common facilities. Consequently, when someone purchases an apartment, individual ownership is acquired. Two important aspects arise at the time of development to the land, which is subject to Law No. 5 of 1960 on the Basic Agrarian Provisions (*Undang-Undang Pokok Agraria*, UUPA), and (2) the apartment unit elements, which are regulated under the Apartment Building Law ([Rahman, 2023](#)).

4.4 The Regulation of Apartment Buildings in Indonesian Law

In this context, apartment buildings function not only as a vertical housing alternative but also as an urban development strategy that emphasizes the principles of efficient land use, equitable access to housing, and environmental protection. Based on Law No. 20 of 2011, apartment buildings have a dual legal character, as they contain elements of individual ownership over housing units and collective ownership over common land and shared parts of the building. This characteristic makes apartment buildings a legally complex housing form, as they combine individual and collective rights within a single, interrelated legal entity.

Erwin Kallo explains that the existence of apartment buildings requires a balance between private interests and collective interests, with management carried out through the legal entity known as the Apartment Unit Owners and Occupants Association (*Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun/PPPSRS*) as the legal representative of all owners. Through the PPPSRS, owners and occupants have a forum to jointly regulate the management, maintenance, and use of common areas, such as gardens, elevators, and parking areas, thereby creating harmony among residents and ensuring the sustainable functioning of the building. This institution also plays an important role in resolving internal disputes, maintaining environmental order, and ensuring fair and transparent implementation of the rights and obligations of each apartment unit owner ([Suryanto, 2022](#)). [Kallo \(2020\)](#) broader account of PPPSRS law situates this associational structure as the principal legal vehicle through which scattered individual owners can act collectively vis-à-vis developers, managers, and holders of the underlying land rights ([Kallo, 2020](#)).

[Suriansyah \(2015\)](#) adds that the construction of apartment buildings functions not only as housing, but also as a mechanism for social equalization and urban density control. In other words, apartment buildings act as social and economic instruments that support the realization of inclusive, well-planned, and competitive cities. Through the development of low-cost owned or rented apartment buildings, the government can provide access to decent housing for low-income communities by optimizing vertical space without the horizontal expansion of residential areas. Moreover, the existence of apartment buildings contributes to the development of more organized, efficient, and

community-oriented urban living patterns within a limited space. [Suriansyah \(2015\)](#) analysis of apartment-building law similarly frames vertical housing as an instrument of urban density control that must nonetheless be accompanied by clear rules on the legal fate of common land once the building's underlying right expires ([Suriansyah, 2015](#)).

However, in practice, various legal obstacles are still encountered relating to the status of common land and the mechanism for extending HGB over HPL. This problem commonly arises due to the lack of synchrony between agrarian law, housing law, and spatial planning regulations, which creates uncertainty for owners of apartment units when the HGB period expires. Additionally, the legal relationship between the holder of the HGB and the holder of the HPL often leads to divergent interpretations, especially regarding the authority to extend or transfer rights over the land. In several cases, owners of apartment units face difficulties in extending their HGB because they encounter land that remains under the management of government agencies or state-owned legal entities holding HPL. This condition creates potential losses for the community as lawful owners of apartment units who have already fulfilled their legal obligations to the developer ([Nguyen, 2022](#)).

This illustrates the need for clear legal norms to constitutionally and administratively protect the rights of apartment unit owners. Legal certainty is a crucial aspect of the apartment ownership system, as it guarantees the right to housing and the economic rights of the community. Therefore, harmonization is required among the Basic Agrarian Law, the Apartment Building Law, and other implementing regulations so that the mechanism for extending HGB over HPL has a clear legal basis and does not generate multiple interpretations. In addition, the government needs to strengthen the land-administration system through the digitalization of data and transparency in the management of state assets to minimize the potential for disputes. Thus, legal clarity not only protects the owners of apartment units but also provides certainty for investors and developers in supporting the development of sustainable vertical housing. Practical guidance addressed to unit owners and occupants likewise stresses that awareness of one's rights under the PPPSRS framework is essential precisely because administrative remedies for HGB-renewal disputes are not self-executing ([Kallo, 2009](#)).

4.5 Legal Harmonization and Protection of Apartment Unit Owners' Rights

Legal harmonization efforts are necessary to eliminate normative conflicts and create a consistent legal basis between Government Regulation No. 13 of 2021 and Government Regulation No. 83 of 2015. This need is particularly important because both regulations occupy a strategic position in regulating land rights and the management of state assets directly linked to housing and apartment building development. Inconsistencies between these regulations often create legal uncertainty in practice, especially regarding the mechanisms for granting, extending, and renewing HGB over HPL. Legal harmonization is expected to create a more consistent and efficient land law system while providing balanced protection among the interests of the state, legal entities, and the community as rights holders.

Bagir Manan argues that harmonization does not merely concern the uniformity of norms, but also the alignment of institutional relationships so that each regulation reinforces, rather than negates, the others. In other words, harmonization cannot be carried out through textual revision of rules alone; it must also consider coordination among implementing institutions. This institutional alignment aims to ensure that the implementation of land and housing policies proceeds effectively and with a unified direction toward achieving national development objectives. Furthermore, harmonization must cover both substantive and procedural aspects to prevent overlapping authorities, especially in granting land rights and managing state land. By establishing normative coherence and good institutional coordination, the implementation of apartment building development policies is expected to proceed in a transparent, fair, and sustainable manner in accordance with the principles of the rule of law ([Laksmi, 2023](#)). [Manan \(2011\)](#) broader theory of constitutional and regulatory politics supports this view, arguing that a regulation only functions as intended when it is read together with the institutional arrangements and hierarchies of authority within which it is embedded ([Manan, 2011](#)).

In the context of apartment buildings, legal harmonization is expected to strengthen the position of the Apartment Unit Owners and Occupants Association (*Perhimpunan Pemilik dan Penghuni Satuan Rumah Susun*/PPPSRS) as the legitimate representative of apartment unit-owners in the process of extending or renewing HGB. The existence of the PPPSRS is highly significant because it functions as a collective forum that mediates the legal relationship between unit owners and the land manager or government agency holding HPL. Through clear regulatory harmonization, the PPPSRS can carry out its role effectively advocate for the rights of apartment unit owners, especially in land administration procedures, which are often complex and layered. In addition, strengthening the legal standing of the PPPSRS can help prevent potential abuse of authority by developers or managers who act opaquely in determining the status of land and buildings.

[Kallo \(2020\)](#) emphasizes that the PPPSRS plays an important role in maintaining transparency, accountability, and legal protection for all apartmentunit owners. Through participatory and open management mechanisms, the PPPSRS can ensure that every decision regarding HGB renewal, management of common facilities, or use of maintenance funds is carried out fairly and in accordance with the law. In the long term, the role of the PPPSRS becomes a key pillar in fostering a culture of responsible collective ownership within vertical housing environments. Thus, regulatory synchronization does not only provides legal certainty and reinforces the principle of social justice and the protection of community rights over vertical housing on state land. Legal harmonization that clarifies the authority of the PPPSRS and the mechanisms of interaction between apartment unit owners, developers, and the government will serve as the foundation for realizing an apartment management system that is just, transparent, and oriented toward the welfare of residents.

4.6 Regulatory Disharmony and Legal Certainty

The main problem arising within Indonesia apartmentbuilding system relates to the disharmony between Government Regulation No. 13 of 2021 on the Management of Apartment Buildings and Government Regulation No. 83 of 2015 on Perumnas. These two regulations differ fundamentally in identifying the legal subject authorized to apply for the extension of HGB over common land situated above HPL, thereby creating legal uncertainty for apartment unit owners in practice. Under PP No. 13 of 2021, the management and extension of rights over apartment land are placed under the responsibility of the PPPSRS as the legal representative of all unit owners. In other words, the PPPSRS has a legitimate standing to submit applications for the extension of the HGB over common land to protect the individual ownership rights of each occupant. In contrast, under PP No. 83 of 2015, that authority is predominantly vested in Perum Perumnas, as the holder of HPL, which controls and manages state land for apartment building development.

This difference in the identification of competent legal subjects creates confusion in field implementation. In many cases, the PPPSRS often lacks the full authority to apply for an HGB extension because the land status still falls under the HPL held by Perumnas. Conversely, Perumnas cannot automatically extend the HGB without the consent or representation of the owners of the apartment units. This situation produces a “grey area” in the legal relationship between the state, the managing entity, and the community of apartment unit owners ([Wibowo, 2021](#)). Consequently, the potential for disputes among PPPSRS, developers, and HPL holding institutions increases, particularly as the HGB term approaches expiration. This illustrates that regulatory disharmony affects not only the administrative dimension but also the guarantee of ownership rights for the community over apartment units that have been lawfully purchased. Therefore, concrete steps are required in the form of synchronization and clear delimitation of the legal roles of the PPPSRS and Perumnas so that the mechanism for extending HGB over HPL can proceed in a transparent, fair, and legally certain manner for all parties involved.

The disharmony in legislation occurs when two or more parallel regulations govern the same object yet contain conflicting substantive provisions, ultimately giving rise to horizontal norm conflict. This phenomenon commonly arises in the national legal system due to weak coordination among rulemaking institutions, overlapping authorities, and divergent policy orientations across different sectors. Such disharmony creates not only confusion in law implementation but also affects the legal

certainty of the people and business actors who are the subjects of these regulations. In the context of land and apartment building law, norm conflict can directly influence the certainty of land rights, the management of state assets, and the protection of individual ownership of apartment units. Therefore, understanding the forms and sources of regulatory disharmony is an initial step toward creating a harmonious, consistent, and fair legal system. This description of horizontal norm conflict is consistent with the general problem long identified in Indonesian legal literature, whereby sectoral regulations of equal hierarchical rank are drafted by different ministries without adequate cross-referencing, a pattern also evident in the relationship between the legal framework established by Government Regulation No. 13 of 2021 concerning the Implementation of Flats and Government Regulation No. 83 of 2015 concerning the National Housing Development Public Corporation (Perum Perumnas).

[Kelsen \(1992\)](#), explains that conflicts of norms of this kind can be resolved by applying the principle *lex posterior derogat legi priori*, a later promulgated regulation derogates an earlier one when both govern the same matter. This principle reflects the dynamic nature of the law, which continuously develops in response to social and political needs. Accordingly, when two regulations of the same rank conflict, the later issued regulation is regarded as more relevant, as it reflects contemporary social, economic, and political developments. Nevertheless, the application of this principle must respect the hierarchy of legislation and not disregard the principles of justice and legal certainty. In practice, *lex posterior* must be balanced with substantive analysis so that its application does not generate new imbalances within the legal order. With careful and consistent application, this principle can serve as a basis for resolving norm conflicts in the Indonesian legal system, including issues concerning land rights and apartment buildings ([Lee, 2021](#)). [Kelsen \(1992\)](#) situates this resolution principle within a broader hierarchical conception of legal order, in which the validity of any given norm ultimately depends on its consistency with norms of higher rank ([Kelsen, 1992](#)).

Legal certainty is a fundamental aspect of the rule of law, as it underpins the realization of justice, order, and the protection of citizens' rights. This principle demands that every government action and legal implementation be based on clear, consistent, and predictable rules whose legal consequences can be foreseen. [Rahardjo \(2009\)](#) emphasizes that law functions as a means of protecting society from arbitrary state conduct, so that every regulation must create a sense of security and certainty for citizens. This view positions law not merely as a collection of written norms but also as an instrument for ensuring substantive justice in social life. Without legal certainty, people lose confidence in the legal system and become vulnerable to administrative uncertainty and overlapping policies among institutions. This view echoes [Rahardjo \(2009\)](#) broader jurisprudential claim that legal certainty cannot be reduced to the mere existence of written rules but must also be measured by the predictability of their application in practice ([Rahardjo, 2009](#)).

In the context of apartment buildings, this legal certainty concerns the guarantee of ownership rights of unit owners over common land, especially where their status is administratively dependent on the holder of HPL, such as Perumnas. This dependence often generates problems when the term of HGB over HPL approaches expiration because the extension process is not fully under the control of apartment unit owners acting through the PPPSRS. Consequently, the legal position of owners may weaken if the HGB extension mechanism is not clearly and transparently regulated. This situation has the potential to create injustice, particularly for communities that have lawfully acquired their apartment units but still lack certainty regarding the status of the common land that underlies their ownership. Therefore, legal certainty in the apartment building system must be realized through clear regulations, simple administrative mechanisms, and guarantees that the rights of apartment unit owners remain protected, even though the land remains under the control of a state-owned legal entity such as Perumnas.

Previous scholars have employed the principle *lex posterior derogat legi priori*, which holds that a later-issued regulation overrides an earlier one. Chronologically, PP No. 13 of 2021 was issued after PP No. 83 of 2015, so that, in theory, that principle could be applied. However, *lex posterior* cannot be mechanically applied without considering other principles, particularly *lex specialis derogat legi*

generali. PP No. 83 of 2015 is a regulation that specifically governs Perumnas as a state-owned enterprise with a special mandate in the field of people's housing, including the management of land under HPL status. In contrast, PP No. 13 of 2021 is general, as it broadly regulates the management of apartment buildings without specifically addressing the institutional character of Perumnas. Thus, in the context of land management under HPL by Perumnas, PP No. 83 of 2015 may be regarded as the *lex specialis*, while PP No. 13 of 2021 functions as *lex generalis*. Therefore, the normative conflict should be resolved through harmonization rather than simply nullifying one of the two regulations. The state must ensure that the application of the Perumnas regulation does not undermine the legal protection afforded to apartment unit owners, as mandated by the Apartment Buildings regulation. The joint application of *lex specialis* and *lex posterior* enriches legal discourse and shows that conflict resolution is not black and white, but requires systematic and teleological interpretation to guarantee justice and legal certainty for all parties.

4.7 Disharmony in the Regulation of Extension or Renewal of Building Use Rights over Common Land under Management Rights

The concept of common land (*tanah bersama*) in Indonesian apartment law refers to land underlying apartment buildings that is collectively owned and used by unit holders based on proportional rights attached to each unit. However, legal uncertainty arises from the absence of clear and uniform regulations governing how common land is classified, registered, and managed after apartment development. In practice, ownership is not individual but proportional, while legal control often remains with developers, land-right holders, or management entities. This creates ambiguity in decision-making authority, particularly regarding transfers, encumbrances, and land-use changes, and weakens legal protection for unit owners when disputes occur. Empirical studies also confirm that Indonesian law lacks a fully integrated framework for regulating common land, resulting in fragmented interpretation across housing and agrarian regulations ([Sari & Kuswanto, 2023](#)).

This uncertainty is further reinforced by overlapping regulations between Law No. 20 of 2011 and Government Regulation No. 13 of 2021, which regulate apartment ownership and management but do not provide detailed operational mechanisms for common land governance. Although PP No. 13 of 2021 and PP No. 83 of 2015 stipulate that the extension of HGB over common land must be submitted through the PPPSRS, practical implementation often leads to uncertainty and dependency on HPL holders. This situation increases the risk of disputes between apartment owners, developers, and government-linked entities, particularly when land rights approach expiration. Therefore, regulatory inconsistency highlights the need for clearer harmonization to ensure legal certainty and stronger protection of apartment unit owners' rights in Indonesia's vertical housing system.

Legal Basis	PP Number 13 of 2021	PP Number 18 of 2015
Object of Regulation	Extension or renewal of jointly owned land upon expiration of its term	Extension or renewal of HGB (Right to Build) over jointly owned land upon expiration of its term on HPL Perumnas
Parties Applying for HGB Extension on Joint Land	All owners through PPPSRS	Perumnas

Figure 1. Comparison of the Extension of Building Use Rights (HGB) over Jointly Owned Land.

From the Figure 1, the disharmony between Government Regulation No. 13/2021 (apartment administration) and Government Regulation No. 83/2015 (Perum) creates legal uncertainty regarding the management and extension of HGB on HPL owned by Perumnas. Substantive differences between Article 49 of PP No. 13/2021 and Article 9 of PP No. 83/2015 produce ambiguity about who may

lawfully apply to extend or renew HGB over common apartment land ([Parto, 2019](#)). In practice, only the HPL holder (Perumnas) can apply for extensions; therefore, apartment unit owners (SHM *Sarusun*) lack direct authority and remain dependent on Perumnas' policy. If Perumnas does not extend the HGB, the legal continuity of unit owners' titles is threatened, despite their compliance. This situation reflects weak legal certainty and horizontal disharmony between regulations of equal rank.

Referring to Kelsen hierarchy of norms, *lex posterior derogat legi priori*, the application of this principle is important to avoid divergent interpretations of the law. Therefore, legal harmonization is necessary: revise PP No. 83/2015 to align with PP No. 13/2021, particularly to clarify which legal subject may apply for the extension or renewal of HGB over common apartment land, so that authority is not concentrated in Perumnas and SHM *Sarusun* owners gain legal access and legitimacy through the PPPSRS as their lawful representative. With regulatory synchronization, legal certainty, justice, and the protection of rights for apartment unit owners are expected to improve. This condition will also strengthen public legitimacy toward the national land law system and support a more transparent, accountable, and sustainable apartment building governance structure ([Tanaka, 2019](#)).

4.8 Discussion

The findings of this study indicate that regulatory disharmony between Government Regulation No. 13 of 2021 on Apartment Management and Government Regulation No. 83 of 2015 on Perumnas creates significant legal uncertainty in the extension of HGB over HPL land. This inconsistency is primarily reflected in the ambiguity of authority between the PPPSRS as the representative of apartment unit owners and Perumnas as the HPL holder. While PPPSRS is normatively granted authority to propose HGB extension, in practice the final control remains with Perumnas, resulting in a dualistic structure of legal power. This condition generates a “grey area” in legal practice, particularly when HGB validity periods approach expiration, thereby weakening legal certainty and potentially threatening tenure security for apartment unit owners.

Furthermore, the application of legal principles such as *lex posterior derogat legi priori* and *lex specialis derogat legi generali* shows that the conflict between the two regulations cannot be resolved solely through hierarchical interpretation, but requires substantive harmonization of norms. The dominance of Perumnas as an HPL holder reflects the strong influence of public administrative authority in what is essentially a hybrid civil-administrative property relationship. This imbalance highlights the need for clearer regulatory alignment to ensure that the rights of apartment unit owners are adequately protected while maintaining state control over land management. Therefore, regulatory reform is essential to strengthen institutional coordination, clarify extension mechanisms, and provide legal certainty in the governance of vertical housing in Indonesia.

5. Conclusions

5.1 Conclusion

Apartment buildings are one of the most relevant and beneficial housing options for urban communities, especially amid rising housing demand and limited land availability. An apartment building is a multi-story structure consisting of functionally organized units, where part of the building is privately owned and another part is jointly used as common parts, common facilities, and common land. However, the implementation and effectiveness of apartment regulations in Indonesia face several challenges. These include issues related to planning and construction, the government's supervisory role, and the involvement of owners, occupants, and managers in maintaining the sustainability of apartment functions.

Structural weaknesses also appear in the institutional legal aspects, especially regarding the formation of the owners' and occupants' association, which should function as a legal entity protecting collective interests. The absence of a specific regulation that comprehensively governs common objects and common land in the apartment context increases the potential for land disputes and creates legal uncertainty for apartment owners. This legal ambiguity is reflected in the lack of explicit provisions regarding the status and management mechanism of common land, including how the extension, renewal, or expansion of HGB over such land should be carried out. In practice, the HPL held by

Perum Perumnas, as regulated under the Government Regulation on Perumnas, remain registered under the company name.

This means that Perum Perumnas, as the HPL holder, has the authority to grant derivative rights, such as HGB, to third parties, including apartment-unit owners. Nevertheless, this condition creates an imbalance in the legal standing between Perum Perumnas as the HPL holder and apartment occupants as holders of temporary HGB rights. Therefore, regulatory reform and clearer legal norms are needed to guarantee legal certainty for apartment occupants and clarify the relationship between HPL and HGB in the context of common land. A more detailed reformulation of policy and implementation of regulations on apartment management is a strategic step so that the concept of collective ownership can align with the principles of justice, efficient spatial use, and strong legal certainty for all parties involved.

5.2 Research Limitations

This study is limited to a normative juridical approach focused on written legal norms and their consistency; therefore, it does not examine empirical field data in depth. Therefore, the analysis is confined to the legal texts of the relevant regulations and their doctrinal interpretations. Another limitation is that the discussion mainly focuses on the legal relationship between PP No. 13 of 2021 and PP No. 83 of 2015. It does not fully explore broader administrative practices, stakeholder behaviors, or specific dispute resolution cases in different apartment complexes.

5.3 Suggestions and Directions for Future Research

Future research should include empirical studies to examine how the extension of HGB over HPL is implemented in practice, especially in Perumnas-managed apartment projects. Interviews with PPPSRS, Perumnas, government officials, and apartment unit owners would help test whether the legal norms are effective on the ground. Further studies should compare Indonesia regulatory model with apartment and land-right regimes in other countries to identify better legal mechanisms for protecting unit owners. In addition, future research could analyze whether digital land administration and asset transparency systems can reduce disputes and improve legal certainty in vertical housing governance.

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Author Contributions

RW substantially contributed to the conceptualization of the research problem, conducted the literature review on legal frameworks for building use rights and management rights, and drafted the initial sections on methodology and conceptual analysis. IP handled data collection from relevant regulations, performed the comparative analysis of Government Regulations No. 13/2021 and No. 83/2015, and led the writing of the results, discussion, and conclusion sections. Both authors jointly reviewed and revised the manuscript for coherence, ensured compliance with academic standards, and approved the final version for submission.

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