



# The Proprietary Rights Status of The Apartment Units Held by Foreign Nationals in Job Creation Law

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Article	Abstract
<p><b>Keywords:</b> Apartments; Foreign nationals; Job Creation Law</p> <p><b>Article History</b> Received: Dec 11, 2021; Reviewed: Jan 26, 2022; Accepted: Mar 24, 2022; Published: Mar 25, 2022;</p>	<p><i>The objective of this research is to examine how the polemics of the proprietary rights of apartment units are provided by the government for foreign nationals who temporarily reside in Indonesia to encourage the improvement of investment, especially in the property sector. This research employed normative-juridical methods by conducting library research involving books, journals or scientific articles, internet media, and statutory approach involving Law No. 20 the year of 2011 regarding Apartment Units, the Law on Job Creation. This research has learned that the Proprietary Rights granted by foreign nationals staying in Indonesia refer to property rights to own apartment units or apartment unit spaces, excluding the land underneath based on land rights, namely Proprietary Rights, Building Rights, and Usufructuary Rights. Granting the status of Proprietary Rights means that the foreign nationals who obtained apartments have the same rights as Indonesian citizens do. The ownership status of Property Rights is granted to foreign nationals. The government in its program of providing apartments for the Low-Income Communities (LIC) should also give legal certainty to the communities. Due to the large number of investors entering Indonesia, it is feared that procurement of apartments for the LIC will be marginalized by the construction of Apartments special for foreign nationals. Therefore, the government should determine which areas may be allowed for foreign nationals' ownership, where in fact the expansion of this proprietary status is an implication of the economic sector for business interests in the property sector.</i></p>



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## INTRODUCTION

Human (*Natuurlijkepersoon*) is the most perfect creature created by the One Almighty God. In the life of the (Indonesia) state, humans or so-called Men are guaranteed by the state because their rights are recognized as legal subjects. In living

the reality of human life as social beings, it is necessary to fulfill their needs such as either clothing, foods, or shelters (Jade, Putri, & Al-Fatih, 2020). Work is a fundamental right for people (Iqbal & Wiryani, 2020). Humans need residence as an environment equipped with various facilities and infrastructures (Sinilele, 2017). Residence is also a resting place from fatigue due to various activities such as work, so that as a resting place it is the residence where one goes when one feels tired of working. Residence should be well built-in order to provide one who lives in it with a sense of security, and comfort. The sense of comfort and security and the ease of residence not only come from a resting place with accommodating facilities but also from the accessibility of the residence (Jaya, Haruni, & Al-Fatih, 2021). Certainly, in this case the developers or property companies possessing a business in the property sector will provide various and complete facilities for residence, and the government will give accessibility to obtain the proprietary rights to the property (Jade et al., 2020). The easiness in possessing the residence is expected so that it will attract people, including foreigners, to own a property-

According to data from Colliers International Indonesia, since 2015 the trend of sales of apartments or properties has decreased. The absorption of the apartment sector in DKI Jakarta in 2015 was 10,620 units. In 2016, this figure decreased to 8,867 units, followed by other downward trends to 8,243 units, 5,898 units, and 4,682 units in 2017, 2018, and 2019 respectively. Throughout 2019, the total supply of apartments in DKI Jakarta was around 211 units and in 2020 it was estimated that there would be an increase of around 13,000 units (Fauzan, 2021). This legal change will make the market attract more investors to invest in Indonesia. Foreign nationals making investment in Indonesia will need residence not only by renting but also by buying properties. Using the proprietary rights might attract the investors' attention because they are easy to get residence when they do businesses or make investments (Yubaidi, 2019).

Currently, Indonesia is trying to catch up with other countries in terms of economic growth (Sumanto, 2021). The property sector is one of the instruments in the business sector that is mostly hunted by investors. Property is indeed one of the investment businesses in demand, because the investment in this sector is a long-term in nature. The growth of the property industry can also be seen from the government's policy in issuing regulations on property ownership. This makes it easier to fascinate investors, especially foreign ones. Indonesia also does not expect to lose its competitiveness with neighboring countries (Herwastoeti, Amin, & Isrok, 2021). The government's policy to raise the sluggish property sector amid the pandemic is expected to be able to bring the Indonesian economy back to normal conditions.

The above matter is related to the promulgation of a legislative product, Job Creation Law, passed on October 5, 2020 by the parliament of the Republic of Indonesia. By permitting foreigners to own apartment units with proprietary rights status, they are expected to take part in developing the property industry in Indonesia which is currently in a state of sluggishness, because previously foreign nationals were not allowed access to possessing property with the proprietary rights status. Proprietary ownership (residence) for foreigners in question is apartment.

Apartments are built as a means of residence as an alternative to landed houses and they are generally found in urban areas. Dense urban settlements make the land or the ground become smaller for residential areas. To anticipate the dense population, since the land or ground used for housing is insufficient, one of the solutions is to construct apartments. An apartment consists of houses constructed vertically and having some floors and divided into rooms. The construction of apartments, besides reducing the land use, may bring residents closer to their workplaces, shorten the infrastructure network and city utilities and make urban open spaces more spacious and comfortable (Sinilele, 2017). In Law on Job Creation, as stated in the Article 144 Paragraph (1), Proprietary rights to apartment units can be given to:

- a. Indonesian citizens,
- b. Indonesian Legal Entities, foreign nationals with permit in accordance with the provisions of regulations,
- c. Foreign Legal Entities having representatives in Indonesia; or
- d. Representatives of Foreign Countries and International Institutions locating or having representatives in Indonesia.

Before the Job Creation Law was enacted, the apartment ownership arrangement by foreign nationals was only limited to usufructuary rights by way of lease, but states that the ownership rights of apartment units by foreign nationals/ foreign legal entities are expanded to become proprietary rights instead of usufructuary ones. The existence of this article becomes problematic because it is not in line with or does not refer to the regulations that have been made previously. This article contradicts with the Basic Agrarian Law stating that proprietary rights may only be owned by Indonesian citizens, and foreign nationals are only entitled to Usufructuary rights. Then Government Regulation No.103 of 2015 states that foreign nationals may choose residence with the type of the Usufructuary Rights. The Law No.20 of 2011 also states that foreign nationals are only entitled to the Usufructuary Rights.

The expansion of the phrase "Usufructuary Rights" into "Proprietary Rights" in the ownership of apartments by foreigners in Indonesia raises a question regarding whether the Proprietary Rights of apartment units by foreigners are ~~not~~ of a legally defective product since the previous regulations are not used as references to change the phrase Proprietary Rights. This causes some ambiguities and even raises conflicts with Article 144 Paragraph (1). It is not explained further what is meant by property rights that are allowed to be controlled by foreigners over apartment units.

Instead of the mere obscurity of the article, the naming of Proprietary Rights on apartment units raises a question over the land on which apartment buildings stand; are foreign nationals also permitted to own the land? It is essential to understand that there is land that serves the basis to consider for an apartment unit probably owned by foreign nationals under proprietary rights. If foreign nationals may also own the land on which the apartments, they bought are built, this deviates from the existing arrangements. How can the low-income community (LIC) obtain such apartment units? Have they been off the radar? Since it is very vital to explain the matters in order to avoid any multiple interpretations and misunderstandings, the author tried to study

this problem. The problems in this study are formulated as follows; what are the juridical consequences from the expansion of the apartment's ownership status into proprietary rights by foreign nationals; and what is the fate of the LIC regarding the granting of Proprietary Rights of apartment units to foreign nationals. Contribution of this research were found so much accordance with the efforts to fulfill the rights of foreigner and local resident in held apartments unit.

## **METHOD**

This research employed normative-juridical methods requiring legal materials obtained from the literature (library research) consisting of primary data and secondary data (Sonata, 2015). The primary data consisted of regulations while the secondary data included books, scientific journals, official documents issued by the government. The search for library materials was based on existing legal materials, either in the form of regulations or written works/or scientific journals such as books or other articles from the Internet relevant to the object of this research. Statutory approach was also employed, where regulations serve as the basis of this legal research.

## **RESULTS AND DISCUSSION**

### **The Juridical Consequences from The Expansion of The Apartments Ownership Status into Proprietary Rights by Foreign Nationals**

Residential arrangements for foreign nationals in Indonesia are within the purview of Law No.11 of 2020 on Job Creation. Article 144 Paragraph (1) implies that foreign nationals are permitted to have apartment units with proprietary rights, and Proprietary rights to apartment units, as stated in the article, can be given to:

- a. Indonesian citizens,
- b. Indonesian Legal Entities, foreign nationals with permit in accordance with the provisions of regulations,
- c. Foreign Legal Entities having representatives in Indonesia; or
- d. Representatives of Foreign Countries and International Institutions locating or having representatives in Indonesia.

Foreign nationals residing in Indonesia are certainly not arbitrary, those who may obtain proprietary rights of apartment units refer to foreign nationals who can give benefits to Indonesia through investment, and to occupy the residence, they should have a permit in compliance with the provisions of regulations. When they want to buy property, they should refer to the followings:

- a. They are allowed to buy an apartment only with usufructuary rights certificate.
- b. They possess a KITAS (Temporary Residence Permit Card), so that foreign nationals who work in Indonesia may stay longer, as stated in Article 2,

Paragraph 2 of the Government Regulation No.103 of 2015 concerning the residential or home ownership by foreigners domiciled in Indonesia.

- c. Only a Single house and an apartment unit which is allowed based on Article 4 No. 103 of 2015 on the residential home ownership by foreigners domiciled in Indonesia. The single house with usufructuary rights and the single house built under the usufructuary rights of the proprietary rights under control are based on the agreement of the granting of the usufructuary rights of the proprietary rights with the act from the Land Titles Registrar.
- d. The price and area of the property are regulated due to different currency exchange rates (Motulo, 2019).

It was mentioned earlier in point number one that foreign nationals may have apartment under usufructuary rights according to Government Regulation No. 105 of 2015. However, the Law on Job Creation states otherwise that an apartment can be possessed under Proprietary Rights. Article 1 of Law no. 20 of 2011 concerning apartment, states that *"Apartments are multi-storey buildings built in an environment that is divided into functionally structured parts, both horizontally and vertically and they constitute units, each of which can be owned and used separately, especially for residential areas equipped with shared parts, shared objects, and shared land."*

The existence of the construction of apartments is usually located in big cities where most of the population is dense so that the establishment of apartments is an alternative effort, where the form of state responsibility as stated in the preamble of the Law no.20 of 2011 concerning Apartment is to provide decent housing. There are several types of apartments known which are often distinguished based on the functions of their use:

- a. Residential apartments—are used for accommodation or residence such as housing, apartments, town houses and other buildings that function as residences.
- b. Commercial apartments are used for commercial purposes such as shops, factory offices, restaurants, and banks.
- c. Industrial apartments are used for industrial purposes, such as storage of goods in large quantities or places for factory and other industrial activities.
- d. Hospitality apartments are like hotels, motels, and hostels (Junyu, 2020).

In article 144 Paragraph 1 of Job Creation Law, the types of apartments possibly owned by foreign nationals with property rights status is not explained. If it is within this context, the types of apartments possessed are generally prevailed; they can be residential, commercial or others (not limited). The ownership permitted ~~is~~ may constitute residence or others, which is not definite. However, if we look at the government's reason for extending proprietary rights to foreigners to own an apartment unit, it can refer to Residential or Commercial Apartments. Foreigners and Foreign Legal Entities are not allowed to buy apartment units owned by the community simply because it is abundantly free and they cannot buy apartments arbitrarily. It can be said that the apartments foreign nationals are allowed to have been those of middle and upper class.

The regulation on the ownership status of apartment units by foreign nationals has been expanded, namely from the usufructuary rights to proprietary rights. This

causes some ambiguities of what is meant by "Proprietary Rights" (Irsan, Warman, & Elvardi, 2020). The reason is that either in the law or in previous government regulations, it has been stipulated that it is possible that foreigners possess apartments under usufructuary rights instead of the proprietary rights, since the proprietary rights may merely be obtained by Indonesian citizens according to the Regulation of the Minister of Agrarian and Spatial Planning/the National Land Agency (ATR/BPN) No.29 of 2016 concerning the Procedures for Granting, Releasing, or Transferring Rights to Ownership of Residential Houses or Occupancy by Foreigners Domiciled in Indonesia. What is meant by Proprietary Rights to Apartments is the Indonesian citizens' ownership of apartment units on land under proprietary rights, building rights, usufructuary rights on state land, as well as the building rights or usufructuary rights on management rights land (Verawati, Salshadilla, & Al-Fatih, 2020). The legal subject as the owner of the apartment unit in the Ministerial Regulation is an Indonesian citizen, not a foreigner.

The use of the phrase Proprietary Rights in the Law on Job Creation is considered not to refer to the provisions of the previous regulations. Thus, as the holders of the Proprietary Rights on the apartment unit, foreign nationals become the legal subject of such ownership (Djanggih & Salle, 2017). The implementation of the concept of proprietary rights clearly violates the previous existing regulations as stated in the Law No.5 year of 1960/Basic Agrarian Law which states that it merely grants the usufructuary rights, and it is also stated in the Government Regulation no.103 of 2015 on the ownership of residential or residential houses by foreigners domiciled in Indonesia. In the Article 2, it is explained that foreigners can own houses for residence or dwelling under usufructuary rights, and Article 4 b states that apartment units built on land under usufructuary rights are those possessed by foreigners, and Law No. 20 of 2011 concerning Apartment Units does not state that the ownership status of foreign nationals is Proprietary Rights.

An apartment is a property industry that has rights to objects, both movable and immovable ones, which may constitute the land, on which the residence or dwelling is located, and the house. The business philosophy for equitable fulfillment of the basic need for housing, accompanied by the provision of decent housing, is lies at the prices that people can afford, especially those with low incomes, but it has now shifted because it turns out that the construction of apartments is seemingly not for the LIC but for high-income society. This tendency will trigger a social gap between the locals and foreign nationals because foreigners have their property rights guaranteed in acquiring residence in Indonesia. The community also relates the government in this case is considered pro against foreigners. The government facilitates foreign nationals with access to possessing residence under special rights (Proprietary Rights). Legal certainty obtained by foreign nationals can lead to legal consequences that transforms the ownership of the status of proprietary rights to that of equal to Indonesian citizens:

a. Certainty of Proprietary Rights on Apartments

Dealing with the status of property rights, foreign nationals have similarities in obtaining the status of apartments because in the case of flats in the form of apartments where the land status is the building rights, foreign nationals may also have equal access to possession like local people. However, it is essential to recall

that in the conception of the Basic Agrarian Law concerning the status of the land on which an apartment is built, foreign nationals are not provided with Proprietary Rights.

b. Certainty of the subject of Apartment Ownership

Based on the Basic Agrarian Law No.5 of 1960, only Indonesian citizens are the subjects of the Proprietary Rights on Apartments, but with the enactment of the Law on Job Creation, since the apartments have the land status of building rights, it is possible that foreign nationals may also become the subjects who can own apartment units.

c. Certainty of the object of proprietary rights on apartments

The object controlled is the unit or space in the apartment individually and separately possessed (Irawan, Zainul, & Warman, 2019).

d. Obtaining an Apartment Proprietary Rights Certificate.

When the status of the Proprietary Rights on the apartment unit by foreign nationals has been officially enacted, proprietary rights certificate is an issue that should be considered. As the holders of proprietary rights, foreign nationals are also entitled to Certificate of Apartment Unit Proprietary Rights (SHMSRS) like Indonesian citizens. The certificate of apartment unit proprietary rights is declared to be issued at the time the certificate of separation is registered. The purpose of the issuance of this Certificate of Apartment Unit Proprietary Rights (SHMSRS) is to ensure that legal certainty prevails. Article 1 Paragraph 11 and 12 of Law no. 20 of 2011 on Apartments states that Proprietary Rights may be interpreted as a condition where its owner has full control over land and building. As said by the minister of Agrarian Affairs and Spatial Planning/National Land Agency Mr Sofyan Jalil, the meaning of "Proprietary Rights" is merely the ownership of apartment space. Therefore, it is also necessary to explain the form of the certificate of ownership of the apartment unit owned by foreign nationals.

R. Soeprapto put forward the special characteristics in the Certificate of Proprietary Rights on Apartment Units, namely: The certificate of proprietary rights on apartment units as evidence of this of ownership is not bound by the type of land rights. Therefore, for the apartments built on land with proprietary rights, building rights, or usufructuary rights on state land, the persons concerned will obtain Certificates of Proprietary Rights on Apartment Units.(Harsono, 2020) So, the implementation of the expansion of the ownership status of apartments with Proprietary Rights may cause impacts that might follow:

a. There is no limit on the extension of apartment ownership

There is no restriction on how long land tenure is, clarifying the philosophical shift in the arrangement in which the Job Creation Law opens opportunities for foreign nationals to have permanent and inheritable land rights.

b. Granting the status of proprietary rights may threaten the state sovereignty.

Granting the ownership status of the apartment unit "Proprietary Rights" to foreign nationals, with a good opportunity for investment which then gives easy access to obtaining the residence, will let foreigners compete to possess apartment units in Indonesia recalling that they are under legal protection. Under these circumstances, is there any restriction for foreign investors? Since in the

government and residence-related affairs, the people still need more government's attention.

c. Construction of apartments will increase in numbers.

If the Job Creation Law succeeds in attracting foreigners or foreign nationals to invest in Indonesia with one of the conveniences provided by the guarantee of apartment ownership with Proprietary Rights, it is possible that the number of investors who will invest and enter Indonesia will increase, so that if many investors come, it is also possible that more apartments will be constructed. Here, there will be a lot of control over the apartment units by foreigners and it should be remembered that ~~in~~ the apartment unit involves land. Therefore, when investors have not finished their business, the land on which the apartment unit is built is still under their control.

The Minister of Agrarian Affairs and Spatial Planning/National Land Agency said actually what we (the government) permit is the ownership of space, a space called an apartment unit. It is the law that determines. If a foreigner buys it, the shared land will not be included, but if it is sold again to an Indonesian, the land will belong to the local (Gaol, 2018). However, the ownership of apartments in Indonesia ~~is~~ includes the shared land ownership, shared objects and shared parts as stated in the Law no.20 of 2011 on Apartment, the concept is always attached to the land under it with the condominium system. Condominium refers to buildings consisting of parts, each of which is a unit that can be used or assessed separately (Chandra, 2019). From the information stated by the Minister of Agrarian and Spatial Planning/National Land Agency, it can be seen in terms of apartment ownership, such as using the principle of horizontal separation like the strata title system but in our national law the term does not exist. Proprietary rights to the apartment unit permitted is limited to the space or its unit, but it should be kept in mind that the space of an apartment unit also stands on the land where the proprietary rights to the unit are attached with land rights. Here, it is separated from shared rights on a shared part, including shared property and land. Therefore, apartment units can be owned on a floating basis without any land rights. In proprietary rights on apartments, the ownership is separated between private ownerships, etc, but if the concept is only the space instead of land owned, many rules should be changed because apartments are attached together to the land (Rachmawati, Choirinnisa, & Latif, 2021).

Apartments are residential areas in which one land has various spaces on it, including shared land, objects, and parts. Shared land is a plot of land on which an apartment building is constructed with clear boundaries and status of rights. Shared objects, however, are not parts of the building that are intended to be used together such as places of worship, parks, parking lots and others. Meanwhile, the shared parts are like a single apartment unit with a foundation, roof, elevator, stairs, and others which are used together (Rejekiningsih, Muryani, & Lukitasari, 2019). That is, if a foreign national buys an apartment, he/she will get 3 parts of the apartment. However, Job Creation Law in Article 144 Paragraph (1) implies that foreign nationals are permitted to own apartment units under the status of proprietary rights. If they are attached to the proprietary rights, the control will be wider and stronger and the issuance of the Proprietary Rights will give effects.



The expansion of the ownership status of apartment units by foreign nationals also has an impact on the status of the land on which the apartment unit is built. The reason is that most of the existing land status of apartments is in the form of Building Rights. Regulation of The Building Rights on the ownership of apartment units does not allow the ownership of the building or the unit of the apartment unit, but also the land under it, namely the land where the apartment or apartment unit is standing.

The owner of the apartment unit is also the holder of land rights. If the concept of the Building Rights is applied in the ownership status of the apartment unit, the original holder of the Building Rights is the developer or the company that builds the apartment itself. If someone later buys the apartment for his own needs, then in addition to owning proprietary rights to the apartment unit which are individual and separate, ownership of the apartment unit also includes ownership of shared parts, shared objects, and shared land which constitute one unitary part of the Proprietary Rights of the apartment unit. The consequence of the land status where an apartment unit with the building rights is constructed is that the owner of the apartment unit should meet the requirements as the holder of the land rights (Cahyono & Gunarto, 2021), as in line with the statement of the Minister of Agrarian and Spatial Planning/National Land Agency Sofyan Djalil implying that the granting of building rights is intended to be consistent between the apartments and the land rights where the apartment units are located.

At a closer look, the Building Rights are addressed to Indonesian Citizens and Indonesian Legal Entities established according to the laws and the local domicile in Indonesia. That is, the legal subjects for permitting the Building Rights on apartments constitute two. However, the context is the granting of Proprietary Rights to apartment units by Foreign Nationals on land with Building Rights. The subject or owner of the Building Rights is not a Foreign national or a foreign legal entity. If so, foreign nationals also become legal subjects who receive the Building Rights. So, permit to own an apartment unit that stands on Building Rights will deviate from the rules that existed before the Job Creation Law was enacted because the subject that may own an apartment unit should be parallel to the condition to possess rights to the land where the apartment (apartment) stands.

If the uniformity between the status of the apartment unit and the status of the land rights on which an apartment is built, the holder of the building rights such as the developer should change the status of the land on which the apartment unit stands into the usufructuary rights. As a result, although a foreign national gets the status of Proprietary Rights on an apartment unit, the apartment is standing on the land under the usufructuary Rights. By relinquishing the status of the land with the Building Rights, then to become state land, an application is made to change it into the land with usufructuary Rights. Legally, the settlement can be made by changing the status of the land where the apartment unit is built so that with the status of usufructuary Rights, the apartment units built may also be sold to foreign nationals (Djelantik & Budiarta, 2021). Therefore, the ownership status of the apartment unit, namely its Proprietary rights, shifts to the land of usufructuary rights. Thus, there will be harmony and match between the land where the apartment unit is built and the proprietary status

of the unit. However, if the Building Rights are changed into the usufructuary Rights, it is likely that the developer will object because of the decrease in the land rights status.

The existence of deviations from the subject of ownership of apartment units by foreign nationals on land with the Building Rights is also an implication from the adoption of the principle of horizontal separation in apartments. The principle of horizontal separation emphasizes the ownership of separate apartments from the land underneath. As a result, the ownership of the building or the apartment unit and that of the land rights may be different. When the status of Proprietary Rights in apartments for foreign nationals is applied, the concept adopts the principle of horizontal separation. However, the use of the legal subject of foreign nationals for proprietary rights on land with Building Rights is contradictory or inconsistent. Therefore, the change in the ownership status of apartment units for foreign nationals into Proprietary Rights, with the reason to boost rapid investment in the property sector, will result in an investment climate in the property sector to demand a change from the requirements for ownership of apartment units by foreign nationals or Foreign Legal Entities in order to own a property on land with the Building Rights in Indonesia (Indriyana & Amelia, 2021).

### **The Fate of The LIC Regarding the Granting of Proprietary Rights of Apartment Units to Foreign Nationals**

The law on job creation which is widely rejected by the public, where a few people believe that this law is a pro-elite law, is merely referred to as the law on investment which only gives benefits to capital owners (investors) and the upper middle class (Fajar & Zaid, 2020). The mention of the expansion of the articles regarding property rights over apartment units creates a different paradigm, because, on the other hand, there is still an important imperative that should be resolved immediately, namely the provision of apartments for the LIC to obtain certainty of residence.

The editorial of Article 144 Paragraph 1 of the Law on Job Creation is deemed to be incomplete because it only takes some parts of the sentence in Article 46 Paragraph 1 and 2 of Law No.20 of 2011 on Apartments because basically it is a shared part, shared object, and also shared land according to The Proportional Comparison Value which is entitled to be owned by the person who has Proprietary Rights on Apartment Unit. However, the existence of foreign nationals who will later be domiciled in Indonesia is given the expansion of proprietary rights on the apartment unit space as a guarantee of residence. Due to the controversy between Job Creation Law and Law no.5 of 1960 or the Basic Agrarian Law on the proprietary rights of the apartment unit, social gaps regarding a condition where social classes emerge because of differences in social life are inevitable. It is also the case if Job Creation Law is implemented in the community and will have an unfair impact on the poor that have not possessed housing guarantee.

Indonesia as an agrarian country imbued with earth, water, and space as gifts from God Almighty has a very vital function to build a just and prosperous society system to create the greatest justice and prosperity for Indonesia (Elviandri, 2019). The development of Apartments is made for the greatest prosperity of the local people. One of the programs launched by the government is the arrangement of slum areas in

urban areas by providing Apartments for the LIC. The government builds apartments for the LIC to facilitate the people's residence. Because of granting foreign nationals prosperity rights to own property in Indonesia, many foreigners will automatically enter Indonesia to invest, with the expectation that the pace of investment will be faster, and developers or companies that own property do not rule out the possibility of providing residence to them by allowing the development of new houses (apartments). In developing apartments, certainly, land on which apartments are erected is required. Therefore, it is inevitable that the land used can have an impact on the LIC, leading to the situation where LIC is marginalized. If this is the case, land that should be used for the benefit of the people seems to be only for business purposes.

In terms of the manifestation of the government's program to build apartments for the LIC, there is still much to be done rather than guaranteeing the ownership of apartments units for foreign nationals. The construction of apartments as one of the government programs, either the central and regional ones for the LIC is intended to make urban spatial plans clean and healthy for the LIC to live in. The emergence of the granting of Proprietary Rights to apartment units for foreign nationals will enable them to have apartment units without any clarity whether time restrictions are imposed or because of the nature of the proprietary rights, they may eternally control the apartment units and the control will no longer come into effect if their investment in Indonesia ends. However, this matter is murky. A sudden flux of foreign investors entering Indonesia and its likelihood to hamper apartment unit construction still become concern when no curbs on proprietary rights are imposed, recalling that more investors will need new residences. In this way, the construction of apartments for the LIC can also encounter obstacles. In the implementation of housing procurement in apartments for the LIC in urban areas, in practice, there are some hindrances:

a. Financial Constraints

The economic capacity of developing countries is deemed to be low. The government's budget is mostly spent on industrial purposes or other sectors as economic backup. The need for housing or residence in developing countries is much greater. The population's incomes in the developing countries are seemingly low compared to those in developed countries, so other needs for food (food) and clothing (clothing) demand fulfilment, leaving only little funding for housing. On the other hand, house prices continue to increase, making houses much less affordable for people.

b. Land Availability and Price Constraints

As the population increases, the amount of land will decrease. The land for residential housing will also be increasingly difficult to obtain and certainly land prices will be increasingly high beyond the reach of most members of the community. So, the LIC may have difficulties acquiring land due to:

- a) land speculation,
- b) excessive land ownership by certain parties,

With the ownership of apartment units under proprietary rights by foreign nationals, there is concern that it will encourage an increasing number of apartment construction projects, outnumbering the development of apartments for LIC.

- c) legal aspects of ownership and

d) unclear Government policy on land issues

Although the need for land is greatly required, especially for the procurement of housing or residence, especially apartments for the LIC, the government still must try harder to bring it about.

c. Infrastructure Availability Constraints

Urban governance in the city plan should be carefully prepared to implement a clear infrastructure development program and the provision of infrastructures that are deemed to be quite large. If this approach cannot be performed, it may result in inappropriate execution of the procurement of housing land infrastructures.

d. Building Material Constraints and Building Regulations

Many building materials needed such as cement, nails, and others may not be provided domestically. There is still likelihood that these materials will have to be imported, so that their prices are beyond what most members of society can afford, creating more problems in the implementation of housing (apartment) development for the LIC (Indrianingrum, 2016).

To respond to this issue, it is necessary to determine the areas where foreigners live and which areas can be used as residences for foreigners, so that the land used for the construction of apartments for the LIC does not end up in the hands of developers or even the government itself in order to avoid any cheating where in practice they use land for the prosperity of the people. In this case, the government should apply legal certainty not only to guarantee the ownership of foreign nationals but also to give attention to the housing for the LIC.

## CONCLUSION

An expansion of apartment ownership status for foreign nationals is possible, if there should be a correlation between land status and subjects who may control apartment units, and it should be in line with the principle of horizontal separation. The ownership of apartment units for foreigners under property rights should be clarified again whether there are restrictions or extensions of rights or not. If there are no consequences, the ownership status is the same as Indonesian citizens. The government should also ensure the areas allowed for foreigners to live in, so as not to disturb the government programs dealing with the fulfillment of apartments for the LIC. Since basically the granting of expansion of apartment ownership status for foreign nationals is an implication of the economic sector to meet business interests in the property sector.

It is suggested that the government give better clarity regarding the proprietary rights of apartment units by foreign national by making further Government Regulations to find out how Law on Job Creation is implemented. The regulation on ownership of apartments by foreigners should be specifically arranged because there is an expansion of the status of the possession of apartment units for foreign nationals. The government should prioritize the principle of publicity by providing transparent information on land, especially the matters dealing with apartments, so that people can dig up information correctly based on rumors. The government may make new laws and regulations through Law on Job Creation but the government should also consider

all aspects of the risks that might continue to emerge. Therefore, it is better to make improvements on sectoral laws, rather than drafting Job Creation Law whose success rate has not been imagined to be perfect.

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