

Apartment Ownership in Question: Legal Insights from Certificate-Based Cases in Rembang

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Abstract

This study aims to analyze the legal aspects of apartment ownership in Rembang Regency, with a particular focus on the implementation of ownership certificates. The background of this research stems from the growing urgency to develop vertical housing in areas with limited land and the importance of legal certainty for unit owners. The research problems addressed include the legal framework governing apartment ownership, the types of ownership certificates applicable, legal challenges in their application in Rembang Regency, and possible legal solutions. This research employs a normative approach and a case study of available apartment ownership certificates. The analysis reveals that although the legal framework—particularly Law Number 20 of 2011 concerning Apartments—is sufficiently established, its local implementation still faces obstacles, especially regarding legal literacy and access to certified land. Therefore, active involvement of local government is needed to facilitate land certification, conduct legal education for the public, and strengthen implementing regulations at the local level.

Keywords

Ownership, Apartment, Certificate, Legal, Rembang.

A. Introduction

The development of the need for decent and affordable housing in Indonesia has encouraged various efforts by the government and the private sector in providing alternative living spaces, one of which is through apartment construction. Apartments, as one form of vertical housing, are now a strategic choice in addressing land scarcity issues, especially in areas experiencing rapid population growth. Although apartments are commonly built in large urban areas, their existence and the urgency of regulation are also beginning to spread to the regency/city level, such as Rembang Regency.¹

Rembang Regency is one of the areas in Central Java Province that is starting to experience a shift in housing needs from horizontal to vertical models. This is caused by several factors, including population growth, land limitations, and increasing demand for affordable and habitable housing. In this context, the presence of apartments in Rembang—although not as intense as in big cities—has become an important issue requiring attention from a legal aspect, especially concerning ownership and legality.

Ownership of apartment units or condominiums is not only related to individual rights over the living unit but also involves ownership of shared parts, shared objects, and shared land. The complexity of these rights makes legal clarity in the regulation of apartment ownership important to prevent future problems. This is where the role of law becomes vital in guaranteeing legal certainty and legal protection for apartment unit owners.²

The main legal basis regulating apartments in Indonesia is Law Number 20 of 2011 concerning Apartments. This law replaces the previous regulation, namely Law Number 16 of 1985. These provisions explain the concept of apartments, forms of ownership, management responsibilities, as well as the rights and obligations of apartment unit

¹ Roban, A. S. (2022). *Tinjauan Yuridis Pelaksanaan Pendaftaran Tanah Wakaf Di Kantor Pertanahan Kabupaten Rembang* (Doctoral dissertation, Universitas Islam Sultan Agung).

² Susilo, D. M., & Gunarto, H. (2023). *Kewenangan Camat Sebagai Pejabat Pembuat Akta Tanah Sementara (PPATS) Dalam Pembuatan Akta Hibah Studi Kasus Di Kabupaten Rembang* (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

owners. In addition, there are implementing regulations such as Government Regulations, Ministerial Regulations, and even regional regulations that serve as complementary legal instruments for technical implementation.³

In practice, apartment ownership is evidenced by the Certificate of Ownership Rights for Apartment Units (SHMSRS). This certificate is issued by the National Land Agency (BPN) and is an official document proving a person's ownership rights over a specific apartment unit along with a proportional share of rights over the shared land. However, not all apartments can be owned with SHMSRS. In certain conditions, for example, apartments built on state land or local government land, the scheme used is the Certificate of Building Ownership for Apartment Units (SKBG Sarusun), which has different characteristics from SHMSRS.

This study specifically examines the situation in Rembang Regency regarding how the legal provisions concerning apartment ownership are implemented. As a region beginning to move towards vertical housing development, Rembang certainly requires a clear legal framework, especially regarding ownership status. It is important to know whether the ownership certificates applied in this area comply with statutory regulations and how prepared the local government is to manage apartments legally and administratively.

Furthermore, this study will also identify challenges that may be faced in implementing apartment regulations in Rembang Regency. Starting from the licensing aspect, land rights acquisition, certificate issuance, to community understanding of their rights as apartment unit owners. These aspects will be the focus in examining how the application of apartment-related laws does not merely remain at the normative level but also how its implementation is carried out in the field.

The importance of legal analysis in this context is to provide academic and practical contributions, especially for stakeholders at the

³ Cahyaningsih, S. (2022). Analisis Yuridis Pemberian Hak Guna Bangunan Diatas Tanah Hak Pengelolaan Pemerintah Kota Tegal (Studi Kasus Pasar Sore Diatas Tanah Hak Pengelolaan Nomor 1 Tegalsari Kota Tegal) (Master's thesis, Universitas Islam Sultan Agung (Indonesia)).

local level. For the local government, this study can serve as a reference in formulating appropriate policies in accordance with national law. For the community, the results of this study are expected to provide a better understanding of their rights and obligations in owning and occupying apartment units. Meanwhile, for academics and legal practitioners, this research provides an overview of how land and housing law is applied in a regional context.

Therefore, through this study, it is hoped that answers can be found to several fundamental questions, including: how does the law regulate apartment ownership? What is the fundamental difference between SHMSRS and SKBG Sarusun? Has the implementation of apartment ownership certificates occurred in Rembang Regency? What are the constraints and challenges faced in the process? And, what steps can be taken to realize legal certainty in apartment ownership in this area?

As an initial study, this introduction attempts to map the context and legal background underlying the research, hoping to provide a strong conceptual foundation for further discussion in the subsequent parts of the article. Using a descriptive-analytical approach and employing normative legal methods and a case study approach in Rembang Regency, this article attempts to answer relevant issues in realizing vertical housing that is not only functional but also has strong legal legitimacy at the local level.⁴

This research uses a normative legal method with a statutory approach and a case study. Its main focus is to analyze the legal provisions regarding apartment ownership based on applicable regulations and their implementation in Rembang Regency. The data sources used consist of primary legal materials, such as Law Number 20 of 2011 concerning Apartments, and its implementing regulations. Secondary data is obtained from legal literature, scientific articles, and local government documents. In addition, one example of an apartment ownership certificate in Rembang is used as a case study. Data analysis is conducted qualitatively-descriptively, by describing legal norms,

⁴ Sadat, M. A. (2022). Analisis Yuridis atas Pajak Bumi dan Bangunan pada Kepemilikan Satuan Rumah Susun Condotel. *Novum Argumentum*, 1(1), 59-71.

comparing them with field practices, and drawing relevant legal conclusions and recommendations.

B. The Situation in Rembang Regency regarding How the Legal Provisions concerning Apartment Ownership are Implemented

The development of the need for decent and affordable housing in Indonesia has encouraged various efforts by the government and the private sector in providing alternative living spaces, one of which is through apartment construction. Apartments, as one form of vertical housing, are now a strategic choice in addressing land scarcity issues, especially in areas experiencing rapid population growth. Although apartments are commonly built in large urban areas, their existence and the urgency of regulation are also beginning to spread to the regency/city level, such as Rembang Regency.⁵

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⁶ Sitepu, R. D., Kaban, M., & Leviza, J. (2024). Analisis Yuridis Perlindungan Hukum Terhadap Pemilik Rumah Hunian Yang Dibangun Di Atas Gedung Dengan Fungsi Usaha. *Jurnal Normatif*, 4(1), 378-390.

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Apartment ownership in Indonesia is specifically regulated in Law Number 20 of 2011 concerning Apartments, which replaces Law Number 16 of 1985. This law stipulates that apartments consist of units that can be individually owned, as well as shared parts, shared objects, and shared land which are proportionally owned by the owners of apartment units.⁷

Proof of ownership of apartment units is indicated by the Certificate of Ownership Rights for Apartment Units (SHMSRS). This

⁷ Aniscasary, S., & Ramasari, R. D. (2022). Tinjauan yuridis kekuatan hukum sertifikat tanah elektronik berdasarkan peraturan menteri agraria dan tata ruang nomor 1 tahun 2021. *Jurnal Hukum dan Erika Kesehatan*, 1-14.

certificate can only be issued if the apartment is built on land with the status of ownership rights, building rights, or usage rights over state land. If the apartment is built on state, government, or local government land, then the Certificate of Building Ownership for Apartment Units (SKBG Sarusun) is used. SKBG Sarusun grants rights over the building only, not the land, and is temporary according to the determined period.

Furthermore, its implementation is clarified through various derivative regulations such as Government Regulation Number 13 of 2021 and Minister of Public Works and Housing Regulation Number 14 of 2021, which regulate the technical aspects of construction, licensing, management, as well as registration of apartments and ownership rights.

In the context of Indonesian land and housing law, there are two main types of ownership certificates used for apartments, namely the Certificate of Ownership Rights for Apartment Units (SHMSRS) and the Certificate of Building Ownership for Apartment Units (SKBG Sarusun). SHMSRS is issued for apartment units built on land with the status of ownership rights or building rights that can be legally proven. This certificate grants full ownership rights to the holder over the living unit along with a proportional share of the shared land.

Meanwhile, SKBG Sarusun is issued for apartment units built on state, government, or local government land. This certificate only grants rights over the building, not the land, thus making it temporary and non-inheritable. Ownership with SKBG Sarusun is more commonly applied in vertical housing projects using government-owned land, especially for the benefit of low-income communities (MBR).⁸

In Rembang Regency, the implementation of apartment ownership is still very limited, considering the small number of apartment constructions. However, in the case identified in this study, it was found that the existing apartments were built on local

⁸ Harris, A., Sitepu, F. Y., & Andriati, S. L. (2021). Analisis Yuridis terhadap Dualisme Kepemilikan Hak Guna Bangunan diatas Hak Pengelolaan sebagai Aset Pemerintah Kota Medan (Sengketa Tanah di Kecamatan Medan Petisah). *De Lega Lata: Jurnal Ilmu Hukum*, 6(2), 339-351.

government-owned land. Therefore, the ownership certificate applied uses SKBG Sarusun. This indicates that so far, SHMSRS has not been widely issued in the area due to the limited availability of land with ownership status that can be used for apartment construction.

The implementation of SKBG Sarusun in Rembang Regency is a form of adaptation to the need for vertical housing amidst land limitations. However, this also presents its own challenges, such as community understanding of the nature and limitations of the rights inherent in this type of certificate, as well as guarantees for the continuity of their housing rights. Apartment ownership in Rembang Regency, like in many other areas, faces several legal constraints that influence the smoothness of the licensing, registration, and ownership recognition process. Some of the main constraints found in the implementation of apartment regulations in Rembang include the following:

1. Limited Land with Ownership Status

One of the biggest constraints in developing apartments in Rembang is the limited land with ownership status available for apartment construction. Most of the land in the area still has the status of state land or local government land, limiting the use of land for apartment construction with Certificates of Ownership Rights for Apartment Units (SHMSRS). As an alternative, in some locations, apartments are built on government or state-owned land, so only the Certificate of Building Ownership for Apartment Units (SKBG Sarusun) can be issued. SKBG Sarusun has different characteristics from SHMSRS because it does not grant rights over the land, but only rights over the building, which is limited and non-inheritable.

2. Lack of Community Understanding Regarding Certificate Differences

Community understanding regarding the difference between SHMSRS and SKBG Sarusun is still very limited. Many apartment owners in Rembang do not fully understand their rights and obligations as certificate holders, especially those holding SKBG Sarusun. This lack of knowledge causes legal uncertainty regarding their apartment ownership rights,

including potential problems in the transfer of ownership rights, buying or selling units, and legal protection for apartment owners. Therefore, more intensive legal education about the types of certificates and their implications needs to be provided to the community.

3. Complex and Lengthy Certificate Issuance Process

The process of issuing apartment certificates, both SHMSRS and SKBG Sarusun, is often hindered by complex bureaucracy. In Rembang Regency, delays in certificate issuance become a major problem for apartment owners who need legal certainty regarding their ownership status. This occurs due to inconsistencies between local government policies and central regulations, as well as a lack of coordination between the National Land Agency (BPN) and the local government in managing and registering apartment certificates.

4. Challenges in Managing Shared Land and Shared Buildings

In apartment arrangements, it is not only the rights over the living unit that need attention, but also the management of shared parts, shared objects, and shared land. In Rembang, there is no clear and structured system for managing shared parts, which can become a source of problems among apartment unit owners. Issues often arise regarding the division of maintenance costs, upkeep of shared facilities, and access rights arrangements. Without clear management, conflicts among residents can arise, detrimental to all parties.

5. Limited Regional Regulations Supporting Apartment Development

The Rembang Regency Government does not yet have a regional regulation (Perda) specifically regulating the construction and management of apartments. The regulations at the national level, although quite complete, do not fully cover specific local needs. This causes confusion in the application of the law in the field, both regarding land management, certificate issuance, and the obligations of developers and apartment owners.

6. Limited Infrastructure and Public Facilities

Often, apartment construction in Rembang is hampered by a lack of adequate public facilities and infrastructure to support vertical housing. Limitations in facilities and infrastructure such as transportation, water channels, and electricity make the process of apartment construction more complex and affect the comfort and quality of life of residents. Moreover, the management of shared facilities in apartments, such as gardens, parking areas, and drainage systems, also becomes a problem that is not easy to solve without clear regulations and understanding from all parties.

7. Weak Supervision and Law Enforcement

Supervision over apartment construction and ownership certificate issuance is often suboptimal. In some cases, apartments are built without complying with applicable procedures or without obtaining proper permits from the local government and BPN. This creates legal uncertainty for apartment owners who feel they are not receiving adequate protection for their rights.

To overcome the existing legal constraints in apartment ownership in Rembang Regency, a series of legal solutions and recommendations are needed to support the creation of legal certainty, administrative efficiency, and improved apartment management quality. The following are some steps that can be taken to address these issues:

1. Improving Legal Socialization and Education for the Community

One of the main constraints in apartment ownership is the lack of community understanding regarding the differences between certificate types, especially between the Certificate of Ownership Rights for Apartment Units (SHMSRS) and the Certificate of Building Ownership for Apartment Units (SKBG Sarusun). Therefore, it is very important to increase legal socialization and education for the community. The local government, in collaboration with the National Land Agency (BPN), can hold seminars, workshops, and legal counseling to

increase community knowledge about their rights as apartment owners. This will help apartment owners understand the legal consequences of their ownership and prevent future legal problems.⁹

2. Formulation of Regional Regulations (Perda) on Apartments

The Rembang Regency Government needs to develop a Regional Regulation (Perda) regulating the construction, management, and ownership of apartments in the area. This Perda will provide a clear legal basis regarding licensing procedures, certificate registration, management of shared parts and public facilities in apartments, as well as the rights and obligations of owners. With the Perda, the local government will have a more specific guide in managing apartments and ensuring that apartment construction is carried out in compliance with applicable legal provisions.

3. Optimizing Coordination Between Government Agencies

One of the constraints faced is the lack of coordination between the local government, BPN, and apartment developers. Therefore, the formation of a coordination team consisting of representatives from BPN, the local government, and other relevant parties is needed. This team is tasked with accelerating certificate issuance and ensuring the administrative process runs smoothly. This coordination is also important to ensure that all parties involved in apartment construction comply with applicable legal provisions, preventing future legal issues.

4. Provision of Land with Ownership Status for Apartment Construction

The limitation of land with ownership status is a major problem in apartment construction in Rembang Regency. One solution that can be applied is the provision of local government-owned land that can be transferred for apartment construction using

⁹ Prameswari, A. R., Gultom, E., & Rahmawati, E. (2024). Analisis Yuridis Terhadap Kualifikasi Pembuktian Sederhana Dalam Kasus Pailit Developer Rumah Susun Ditinjau Dari SEMA Nomor 3 Tahun 2023 Dan Undang-Undang Tentang Kepailitan Dan PKPU. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 8(1), 99-115.

the SHMSRS scheme. The local government needs to map and provide vacant lands that can be used for constructing more affordable apartments that meet community needs. In addition, policies for granting land use permits for apartment construction with ownership rights or building rights status need to be simplified to accelerate the construction process.

5. Improving Infrastructure and Public Facilities Around Apartments

Adequate infrastructure and public facilities are very important to support the smooth development of apartments and the quality of life of residents. The local government needs to develop and improve infrastructure such as roads, water channels, transportation systems, and other facilities that can support apartment residents. Providing sufficient public facilities will help create decent housing and increase resident comfort. Furthermore, good apartment development planning must consider environmental and sustainability aspects, so that apartments can become an environmentally friendly housing option.

6. Strengthening the Management of Shared Parts and Shared Land

The management of shared parts, shared objects, and shared land in apartments needs to be done well to prevent conflicts among residents. Therefore, it is recommended that the local government work together with developers to create internal regulations (joint agreements) regarding the management of public facilities and shared parts. The formation of an Apartment Residents Association (APRS) is also an alternative to ensure that apartment management is carried out transparently and professionally. APRS can function as a forum for residents to gather, resolve problems, and plan improvements to shared facilities.

7. Improving Supervision and Law Enforcement

Supervision over apartment construction and certificate issuance must be strengthened to prevent legal violations. The local government needs to increase supervision over developers

and ensure that every apartment project complies with applicable licensing procedures. In addition, strict law enforcement against violations related to apartment ownership and management needs to be carried out to provide a deterrent effect for parties violating the provisions.

8. Simplifying the Administrative Process and Certificate Issuance
The long and complex process of issuing apartment certificates can be overcome by simplifying administrative procedures. The local government and BPN need to evaluate the existing administrative system and find ways to speed up the certificate issuance process without reducing the accuracy of checks. This will provide legal certainty for apartment owners and reduce prolonged administrative burdens.¹⁰

C. Conclusion

Apartment ownership in Rembang Regency is an increasingly relevant topic alongside the development of vertical housing needs in the area. Although apartments offer a solution to land limitations and the high demand for affordable housing, the application of regulations regarding ownership and management still faces several challenges that require serious attention. Legal constraints, such as limited land with ownership status, lack of community understanding regarding ownership certificate types, and complex bureaucracy, become obstacles that slow down the legalization process of apartments in the area. However, with the right legal solutions, such as increasing legal socialization, forming more specific regional regulations, and strengthening coordination between government agencies, it is hoped that these problems can be overcome. The local government also needs to pay special attention to providing government-owned land that can be used for apartment construction and accelerating the process of issuing apartment ownership certificates. Improving infrastructure and public facilities, better management of shared parts, and strengthening

¹⁰ Sagoni, S., Saputra, A. W., & Nur, A. W. (2023). Tinjauan Yuridis Terhadap Kedudukan Sertifikat Tanah di Wilayah Pesisir Danau Tempe. *Legal Journal of Law*, 2(2), 107-118.

supervision and law enforcement are also important steps that must be taken to ensure the success of sustainable apartment development.

From this study, it can be concluded that the success of apartment management and ownership does not only depend on existing regulations but also on effective implementation and collaboration between the government, developers, and the community. With commitment from all parties, Rembang Regency can become an example of a region capable of managing vertical housing legally, efficiently, and sustainably, as well as providing strong legal protection for apartment owners. As a next step, more in-depth studies are needed on the application of regulations and policies related to apartments in Rembang Regency, to ensure that existing problems can be solved with more systematic and planned solutions. In the future, the hope for creating vertical housing that is not only functional but also legally sound will provide a significant contribution to the development of decent and affordable housing in Indonesia, including in Rembang Regency.

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