

Securing the Right to Housing: Legal Review of Rusunawa on Local Government Land in Brebes

Aulia Pebriyani

Universitas Negeri Semarang, Semarang, Indonesia

✉ Corresponding email: auliapebriyani26@students.unnes.ac.id

Abstract

The development of low-cost rental apartments (Rusunawa) is a government initiative aimed at providing decent housing for low-income communities (MBR), especially in areas with high urbanization rates such as Brebes Regency. However, the utilization of regional government-owned land for the construction of Rusunawa raises legal issues regarding ownership status and residents' housing rights. This study aims to examine the legal provisions surrounding the use of state/regional land for apartment development, as well as the form of ownership or housing rights granted to residents of public apartments built on such land. The research adopts a normative legal method with a descriptive-analytical approach, using primary data from statutory regulations and secondary data from field observations at the Brebes Rusunawa. The findings reveal that the land remains the property of the regional government and cannot be transferred to residents. Thus, residents are granted only temporary rental rights through agreements with the local government. These rights are non-permanent, non-inheritable, and non-transferable—unlike the Ownership Certificate of

Strata Title Units (SHMSRS). Accordingly, legal regulations in Brebes affirm that housing rights in Rusunawa are temporary and based solely on lease agreements, in accordance with the Regent Regulation and Government Regulation on the Management of Regional Assets.

Keywords

Public housing, regional land, lease.

A. Introduction

The increasingly modern times make housing a fundamental necessity that is very important to possess. A house is a basic human need that plays a significant role in improving the quality of life, dignity, and status of every individual. Ideally, every family should have decent housing as a form of fulfilling fundamental rights. Efforts to develop housing and settlements continue to increase in order to meet the housing needs of the community. The availability of decent housing is expected to be able to create a safe, comfortable environment that supports the welfare of all levels of society. The high rate of population growth is not proportional to the increasingly limited availability of land. This condition becomes one of the obstacles in housing development, as limited land makes the housing construction process difficult. Nevertheless, a house remains a basic necessity that must be fulfilled by every individual.

Providing housing and settlements is an important responsibility that must be carried out by the government through its development function. This responsibility includes providing decent, comfortable, and affordable housing, especially for Low-Income Communities (MBR) who need affordable housing facilities. The right to have a place to live is part of the human rights of every citizen as guaranteed in Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to live prosperously in material and spiritual terms, to have a home, obtain a good and healthy environment, and obtain health services. Apartment development is regulated in Law Number 16 of 1985 concerning

Apartments which was later replaced by Law Number 20 of 2011 concerning Apartments (hereinafter referred to as UURS).

Article 1 number 1 of the Apartment Law (UURS) states that an apartment is a multi-story building established within an environment and divided into units arranged functionally, both horizontally and vertically. Each unit can be owned and utilized separately, mainly as a residence, and is equipped with common parts, common property, and common land. Rusunawa is a program initiated by the government as an effort to meet the housing needs of Low-Income Communities (MBR) who do not have a fixed income. This type of housing can be occupied with a flexible rental system, either daily or monthly, making it an accommodating solution for community groups who need temporary accommodation at an affordable cost.

The explanation of Article 1 number 1 of Minister of State for People's Housing Regulation Number 14/PERMEN/M/2007 concerning the Management of Low-Cost Rental Apartments states that Low-Cost Rental Apartments (Rusunawa) are multi-story buildings built within an environment and divided into units arranged functionally, both horizontally and vertically. Each unit is used separately with a leasehold status, and its construction is funded by the State Revenue and Expenditure Budget (APBN) and/or Regional Revenue and Expenditure Budget (APBD), with the primary purpose as a residence.

Brebes Regency is one of the areas with quite rapid population growth in Central Java. Urbanization occurring in industrial areas and the main market causes an increase in the demand for decent and affordable housing. As a solution to land limitations and high housing demand, the Brebes Regency Government has built Low-Cost Rental Apartments (Rusunawa) in several strategic locations. In Brebes Regency, the construction of Low-Cost Rental Apartments (Rusunawa) is part of a national program supported by the Ministry of Public Works and Housing, with land provided by the local government. One project that has been completed and put into use is the Rusunawa located in Pulosari Village, Brebes District. This apartment complex is intended for MBR, especially factory workers, small traders, and vulnerable communities who do not yet have a house. However, although the

apartment complex is already in use, the legal aspects related to the ownership and management of apartments built on regional government land still leave several issues.

The expansion of apartment construction on state/regional government land must consider various applicable legal aspects, including the ownership status of apartment units, land rights, and legal protection for residents. Furthermore, clear regulations are needed regarding rental agreements, joint management, and the responsibilities of the local government as the landowner. Therefore, it is important to review the legal aspects of public housing ownership in Brebes Regency, in order to provide a strong juridical basis for the practice of housing development and utilization in the region. Research Problem:

1. What are the legal provisions regarding the utilization of state/regional land for apartment development in Brebes Regency?
2. What is the form of ownership or housing rights of the community towards public apartments built on such regional government land?

This research uses the normative legal study method with a descriptive-analytical approach to understand and analyze the legal phenomena occurring in the field. In this approach, the main focus is on the applicable norms in statutory regulations and their implementation within the context of relevant regulations. This research aims to provide a clear picture of how these legal norms are applied and provide impacts in daily practice, especially in the Brebes Rusunawa area which is the object of observation.

The data sources in this research consist of applicable statutory regulations, related government documents, and field observation results conducted at Brebes Rusunawa. The collected data is analyzed using a qualitative normative approach through a literature study method, where the researcher will study relevant literature and legal documents to explore the issues under investigation. Through this analysis, it is hoped that a more in-depth understanding of the legal regulations in the field under study and the legal implications arising from the application of these rules can be obtained.

B. Legal Provisions Regarding the Utilization of State/ Regional Land for Apartment Development in Brebes Regency

The utilization of regional government land for the construction of Low-Cost Rental Apartments (Rusunawa) in Brebes Regency is an implementation of a national policy aimed at providing affordable housing for low-income communities. In Indonesia, the housing issue is a relevant matter, especially in urban areas and regions with rapid urbanization, such as Brebes. Based on Law Number 20 of 2011 concerning Apartments, apartment construction can be carried out on state or regional government land through lease or utilization cooperation mechanisms. This highlights the importance of providing decent housing and managing regional government assets more efficiently. The development of these apartments does not only focus on creating decent housing but also aims to optimize the use of regional government land. With the utilization of existing land, the construction of rusunawa is expected to become a solution to the housing problems in Brebes, which is experiencing an increase in housing demand due to urbanization. Furthermore, this policy reflects the government's efforts to provide housing access for low-income communities without sacrificing transparent and accountable management of regional assets.

The legal understanding of "Apartment" in this law refers to a multi-story building that has an individual ownership system as well as shared rights over certain parts. The building can be used for residential or non-residential functions, either separately or integrated within one development unit. Apartments are classified into four types according to the provisions of Article 1 of the Strata Title Law, namely:

1. Public apartments are apartments arranged to accommodate the housing needs of low-income communities.
2. Special apartments are apartments arranged to accommodate specific requirements.
3. State apartments are state-owned apartments that function as housing, a place to raise a family, and a way to support the implementation of duties.
4. Commercial apartments are built for the purpose of generating money.

Based on Article 45 of the Apartment Law, public apartments can be controlled by owning or renting. The official term for public apartments for low-income communities includes 2 (two) types of apartments, namely:

1. Low-Cost Rental Apartments (Rusunawa)
2. Low-Cost Ownership Apartments (Rusunami)

The construction of Rusunawa in Brebes is funded by the Ministry of Public Works and Housing (PUPR), indicating the central government's concern for housing needs in the region. The land used for the construction of rusunawa is an asset owned by the Brebes Regency Government, recorded as Regional Asset (BMD). The utilization of this BMD refers to Government Regulation Number 28 of 2020 concerning the Management of State/Regional Assets, which emphasizes that the land remains owned by the local government and cannot be transferred to residents. Therefore, the land can only be used for public interest according to its original purpose. Communities occupying Rusunawa only have the right as tenants subject to the provisions in the Lease Agreement with the Brebes Housing and Settlement Directorate (Perkim). Tenants will not have ownership rights over the land, but they still obtain the right to occupy the housing built on regional government land for a specific period stipulated in the lease agreement. Although the community can enjoy decent housing facilities, they still have limitations in terms of land ownership rights.

The main objective of this policy is to optimally utilize regional government land while ensuring the availability of decent housing for less fortunate communities. The local government is responsible for ensuring that the managed land is used for public interest and not for personal or specific group interests. The utilization of regional government land follows the principles of transparent and accountable management, so that there is no misuse or change of function that is not in accordance with the original purpose. The implementation of Rusunawa in Brebes is a concrete example of the local government's efforts to support sustainable development. With the limited amount of land available in urban areas, utilizing existing land is the right solution. The local government, through the Perkim Office, plays an important role in regulating and managing the utilization of this land by

establishing cooperation with parties who have the capacity to support development. An important aspect of this cooperation is how the local government can ensure that the management of land and the construction of rusunawa runs smoothly and provides long-term benefits for the community.

The implementation of this policy faces challenges. One of them is the difficulty in aligning the interests of the central and regional governments, which often differ in terms of priorities and budget allocation. In addition, the administrative process related to BMD management requires a long time and complicated procedures. Coordination between the parties involved in this project is very important so that the objectives of rusunawa construction are achieved efficiently. Socio-economic factors also become an important aspect in utilizing land for rusunawa construction. Although the rent for rusunawa is more affordable compared to other commercial housing, barriers still exist for communities in need. The rental policy applied must be flexible and able to adjust to the economic conditions of the local community. This adjustment includes setting fair rent rates and the payment capacity of rusunawa residents.

Periodic evaluation of the Rusunawa program in Brebes is necessary to ensure that the implemented policies provide maximum benefits. This evaluation includes not only the physical aspects of construction, but also the sustainability of regional government land management and the quality of life of residents. The local government must collect data to measure how effective this policy is in improving community access to decent housing. This data can be used for policy improvements or necessary adjustments so that the program is more successful. Overall, the utilization of regional government land for the construction of Rusunawa in Brebes shows the local government's efforts in addressing housing problems by using the resources it has. This policy reflects a commitment to creating affordable housing for the community without neglecting efficient and transparent management of regional assets. Good management is expected to make this program not only solve housing problems, but also become a model for other regions in utilizing regional government land for broader development purposes.

C. The Form of Ownership or Housing Rights of the Community Towards Public Apartments Built on such Regional Government Land

Every Indonesian citizen has the right to obtain decent housing as part of human rights as stipulated in Article 28H paragraph (1) of the 1945 Constitution. The state has the obligation to realize access to housing, especially for low-income communities (MBR). In the context of Brebes Regency, the fulfillment of this right is realized through the construction of Low-Cost Rental Apartments (Rusunawa) built on land owned by the Regional Government (BMD). The land is managed by regional apparatus and is not transferred to residents, so the form of ownership of the community towards the housing units they occupy is not in the form of ownership rights, but rental rights.

Based on the Brebes Regency Regulation Number 50 of 2021 concerning the Management of Low-Cost Rental Apartments, the community occupying rusunawa obtains housing rights based on utilization recommendations and rental agreements. Article 12 states that residents can only utilize rusun units after paying the management fee and signing a rental agreement. This agreement includes the identity of the parties, period of time, rights, obligations, and prohibitions during the occupancy period. This indicates that the form of ownership given to the community is merely temporary use rights through a rental system managed by the Housing and Settlement Directorate (Perkim).

The consequence of this rental system is that residents do not obtain a Certificate of Ownership Rights for Apartment Units (SHMSRS) as possible under Law Number 20 of 2011 concerning Apartments. In this context, the regulations applicable in Brebes follow the provisions of Government Regulation Number 28 of 2020 concerning the Management of State/Regional Assets, which emphasizes that regional assets cannot have their rights transferred to third parties, except through very strict and limited asset transfer procedures. Because the land used to build rusunawa is Regional Government Property, its legal status cannot be modified into residents' ownership rights. In the applicable regulations in Brebes Regency, specifically Article 4 of Regional Regulation Number 50 of 2021, it is also stated that the utilization of rusunawa buildings is carried out based

on rental agreements, and residents are only allowed to utilize housing units in accordance with the provisions. There are no regulations or legal loopholes in this Regional Regulation that open up opportunities for residents to obtain ownership rights. In fact, in Article 16 letter a, residents are prohibited from transferring the rights to utilize rusunawa to other parties, indicating that the rights they have are not rights to permanent ownership, but rather personal rental rights that cannot be inherited or transferred.

Unlike the Certificate of Ownership Rights for Apartment Units (SHMSRS) given to owners of apartment units on land with ownership rights or HGB, residents of Rusunawa Brebes only receive housing recommendations with a certain validity period, namely one year and can be extended up to six times (Article 7). This makes their legal status temporary and does not provide long-term legal certainty for residents in terms of ownership. As a comparison, the implementation of SHMSRS is generally applied to owned apartments (rusunami) built on state land or land resulting from cooperation with business entities. For example, in the Rusun Cisaranten KPBU project in Bandung, the Ministry of PUPR uses the Building Permit Certificate (SKBG) scheme to provide limited legal certainty to MBR as proof of building ownership, although not the land. However, in the context of Rusunawa Brebes, there are no regulations regarding SKBG or efforts towards legalizing building ownership by residents.

Therefore, the form of ownership or housing rights of the community towards public apartments built on land owned by the Brebes Regency Government is legally only limited to non-permanent rental rights that cannot be converted into ownership rights. This legal position is rigidly regulated in the Brebes Regency Regulation and is in line with PP 28/2020, which prioritizes the management and utilization of regional assets without changing its ownership status.

D. Conclusion

The utilization of regional government land for the construction of Low-Cost Rental Apartments (Rusunawa) in Brebes Regency is a concrete form of implementing national policies in fulfilling the right to decent housing for low-income communities (MBR). Legally, this

construction refers to Law Number 20 of 2011 concerning Apartments and Government Regulation Number 28 of 2020 concerning the Management of State/Regional Assets. Based on these regulations, the land used remains classified as a regional government asset that cannot be transferred to other parties, except through very strict transfer mechanisms. The use of land for apartment construction is carried out through utilization cooperation or direct use by the local government for public interest. Therefore, the construction of Rusunawa in Brebes shows a form of synergy between the central and regional governments in providing decent housing without eliminating the principles of accountability and legality in the management of state/regional assets. This simultaneously becomes a legal approach model that prioritizes the sustainability of asset management and social justice in its utilization.

The housing rights of the community towards public apartments built on regional government land, such as Rusunawa Brebes, do not take the form of ownership rights as known in the apartment unit ownership system (strata title), but rather take the form of limited and temporary rental rights. Based on the Brebes Regency Regulation Number 50 of 2021 and the provisions of PP Number 28 of 2020, residents are only given the right to utilize housing units based on rental agreements containing time periods, rights and obligations, and certain prohibitions. This rental right cannot be inherited, transferred, or converted into ownership rights because the land and buildings remain regional government assets that may not be freely transferred. In other words, the form of ownership provided to the community in the context of Rusunawa is only administrative in nature as tenants subject to local government policies. Nevertheless, this rental right still provides access to decent and affordable housing for vulnerable community groups, even though it does not yet guarantee long-term legal certainty in terms of personal ownership of the housing. Therefore, this system needs to be supported by strengthening regulations and supervision in order to provide sufficient legal protection for tenants and prevent potential abuse of authority in the management of public assets.

E. References

- Ali, Chaidir. 2005. *Badan Hukum*. Bandung: Alumni.
- Ali, Zainuddin. 2011. *Metode Penelitian Hukum*. Jakarta: Sinar Grafika.
- Andika Wijaya dan Wida Peace Ananta. 2017. *Hukum Bisnis Properti di Indonesia*. Jakarta: PT. Grasindo.
- Arie S. Hutagalung. 1998. *Condominium dan Permasalahannya*. Jakarta: Badan Penerbit FH UI.
- Komariah. 2016. *Hukum Perdata (Edisi Revisi)*. Malang: Universitas Muhammadiyah Malang Press.
- Mimi Rosmidi Akis dan Imam Koeswahyono. 2010. *Konsepsi Hak milik Atas Satuan Rumah Susun Dalam Hukum Agraria*. Malang: Setara Press.
- Peraturan Bupati Brebes Nomor 50 Tahun 2021 tentang Pengelolaan Rumah Susun Sederhana Sewa.
- Peraturan Menteri Negara Perumahan Rakyat, Nomor 14/PERMEN/M/2007, tentang Pengelolaan Rumah Susun Sederhana Sewa.
- Peraturan Pemerintah Nomor 28 Tahun 2020 tentang Pengelolaan Barang Milik Negara/Daerah.
- Supriadi. 2007. *Hukum Agraria*. Jakarta: Sinar Grafika.
- Sutedi, Adrian. 2012. *Hukum Rumah Susun & Apartemen*. Jakarta: Sinar Grafika.
- Undang – Undang Nomor 20 Tahun 2011 Tentang Rumah Susun.

Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

The authors state that there is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

Generative AI Statement

N/A