

Indonesian Journal of Agrarian Law
Vol. 2 Issue 3 (2025) 185–199
DOI: <https://doi.org/10.15294/jal.v2i3.31127>
Available online since: November 30, 2025

Indonesian Journal of
Agrarian Law
<https://journal.unnes.ac.id/journals/jal/index>

Strata Title in Practice: Legal Review of Apartment Ownership in Pekalongan Under Law No. 20 of 2011

Widiya Dwi Novarianti

Universitas Negeri Semarang, Semarang, Indonesia
widiyadwinovarianti@mail.unnes.ac.id

Aditya Kusuma Bharata

Universitas Pekalongan
bharata@gmail.com

Muhammad Faiz

Universiti Teknologi Malaysia
faiz@gmail.com

Priya Nair Author

James Cook University Singapore
nair@yahoo.com

Kanya Suksawat Author

Prince of Songkla University
suksawat@yahoo.com

Corresponding email: widiyadwinovarianti@mail.unnes.ac.id

Abstract

This research discusses the juridical aspects of apartment

ownership with a focus on the implementation of the provisions of the Right of Ownership over Apartment Units (HMSRS) in Pekalongan City based on Law No. 20 of 2011 on Apartments. The background of this research arises from the issue of limited land in urban areas due to rapid population growth and urbanization, which encourages the need for alternative vertical housing such as apartments. Apartments have become a solution to the housing crisis, particularly for low-income communities (MBR), but the legal implementation in the region often does not fully align with national regulations. This study highlights that the management of Rusunawa in Pekalongan City is still carried out administratively with a rental system, without granting individual ownership rights as stipulated in the law. Through a normative juridical approach, this research examines the legal provisions regarding land status and assesses the extent to which regional regulations and field practices reflect national legal principles. The research results show a discrepancy between *lex superior* and *lex inferior*, which can cause legal uncertainty for residents. This research recommends a reformulation of regional policies, an active role for the National Land Agency (BPN) in legal recognition, and the importance of increasing public legal literacy to create a fair and sustainable apartment ownership system.

Keywords

Apartments, Right of Ownership over Apartment Units, Pekalongan City, Law No. 20 of 2011.

A. Introduction

In Indonesia, population growth is increasingly rapid, resulting in a rising demand for land used as settlements or housing, which increases every year. According to the Agrarian Law (UUPA), rights such as Right to Build (Hak Guna Bangunan), Right to Own (Hak Milik), and Right to Use (Hak Pakai) contribute to high land and housing prices, making them unaffordable for the middle class. This regulation explains the implementation of apartment buildings in

Indonesia, aiming to improve the welfare of lower-middle-class communities by providing safe, comfortable, and affordable housing units. It further states that this regulation is intended to provide legal certainty, ensure orderly development, and meet the need for decent housing, particularly in densely populated urban areas, which is critically important.

According to Article 1 of Law No. 20 of 2011, an apartment (*rumah susun*) is a building constructed within a specific area, consisting of vertically and horizontally arranged sections. Each unit in the building has its own function and can be owned or used separately according to the available units. With this law, it can be said that the state shows commitment in fulfilling housing needs for low-income communities. Meanwhile, apartment units (*sarusun*) can be owned by individuals or private parties. Ownership of apartments is known as the SHM *Sarusun*, which includes the apartment unit along with the land on which the building stands—on land with status as Right to Own, Right to Use on State-owned land, or Right to Build.

Furthermore, according to Article 1 of the Apartment Law, apartments are divided into four categories. First, general apartments (*rumah susun umum*) are multi-story dwellings built to assist in meeting housing needs for middle-income communities. Second, special apartments (*rumah susun khusus*) are designed to fulfill specific needs. Third, state-owned apartments (*rumah susun negara*) are owned by the government and serve as residences or dwellings, and also function as facilities for family development and support for the duties of state officials or civil servants. These are usually provided by the government to enhance the effectiveness of state apparatus. Fourth, commercial apartments (*rumah susun komersial*) are managed by developers or private parties with the primary goal of financial profit. These are freely sold or rented in the market without income restrictions for potential occupants.

Article 45 of the Apartment Law states that control

over general apartments can be carried out in two ways: through ownership or rental systems. In practice, two types of apartment housing are specifically intended for low-income communities (MBR): Rumah Susun Sederhana Sewa (Rusunawa), which are vertical dwellings provided by the government or developers where residents rent the unit without owning it. This model aims to provide an affordable, temporary housing solution. The second type is Rumah Susun Sederhana Milik (Rusunami), apartments designated for MBR with an ownership scheme. Residents of Rusunami have ownership rights over their unit, thus enhancing residential stability and certainty.

In practice, granting the Right of Ownership over Apartment Units (HMSRS) must meet several requirements, one of which is that the land on which the apartment stands must have the status of Right to Own, Right to Build, or Right to Use on state land designated for apartment use. However, implementation of these provisions in areas like Pekalongan City still faces various challenges, including land administration, legal compliance, and public and developer understanding of applicable regulations. Therefore, a juridical review is necessary to understand how legal provisions regarding land status and HMSRS issuance are implemented in Pekalongan City.

Based on the above, this study focuses on two main research problems:

1. What are the legal provisions regarding land status in apartment construction based on Law No. 20 of 2011?
2. How is the legal provision on the Right of Ownership over Apartment Units (HMSRS) implemented in Pekalongan City?

This research aims to provide broader insights into the legal aspects of apartment construction, especially regarding regulations governing land status and apartment unit ownership. The main objectives are as follows:

1. To analyze the legal provisions regarding land status in apartment construction based on Law No. 20 of 2011. This analysis seeks to identify the legal basis, requirements, and specific regulations governing land ownership as a foundation for apartment development. The study will also explore how these regulations bind developers and individual apartment owners, and how legal frameworks can ensure legal certainty and protection of land rights in apartment projects.
2. To evaluate the implementation of legal provisions on the Right of Ownership over Apartment Units (HMSRS) in Pekalongan City, and to identify obstacles and factors affecting its execution. This assessment aims to understand how HMSRS provisions are practically implemented on the ground, particularly in Pekalongan City. The study will highlight administrative, social, and economic challenges in the HMSRS granting process. Additionally, it will analyze the level of legal awareness and understanding among the public and developers regarding applicable regulations.

This research is expected to provide significant contributions both theoretically and practically:

1. Theoretically, this research is expected to enrich knowledge in the field of law, particularly in land and agrarian law related to apartment unit ownership. By conducting an in-depth analysis of applicable regulations, especially Law No. 20 of 2011 on Apartments, the findings can serve as a scientific reference for academics, researchers, and students studying topics related to apartments, land status, and ownership legality from a national legal perspective. This research can become a reference material to expand academic discourse on the complexity of apartment regulation and implementation in Indonesia.
2. Practical Benefits, in practical terms, this research is expected to provide clear and structured understanding to stakeholders—including local

governments, property developers, and the general public—on the importance of adhering to legal provisions regarding land status and the mechanism of apartment unit ownership (HMSRS). This knowledge is crucial to ensure apartment development and management comply with existing regulations and prevent potential disputes. Furthermore, the research can serve as evaluative and recommendatory material for policymakers, particularly the Pekalongan City government and related agencies, in assessing the effectiveness of implemented apartment policies. The findings may also encourage the formation of more responsive local policies that meet community needs while complying with legal principles, including land rights protection and legal certainty in apartment ownership.

This research uses a normative juridical approach to examine positive legal rules governing apartments, particularly those related to ownership and land status in the construction process. This approach focuses on analyzing statutory regulations as the primary legal sources to address the research issues.

The study specifically examines Law No. 20 of 2011 on Apartments as the main legal instrument, along with relevant implementing regulations such as Government Regulations, Ministerial Regulations (ATR/BPN), and other regulations related to land rights and the mechanism for granting the Right of Ownership over Apartment Units (HMSRS). The goal of this approach is to gain an in-depth understanding of the normative structure of regulations governing apartment construction and their legal status.

Data collection in this normative juridical approach is conducted through library research, gathering and analyzing various legal sources, both primary and secondary. Primary legal sources include legislation, court decisions, and other official state documents related to the research topic. Secondary legal materials include academic literature such as

law textbooks, scientific journals, previous research results, and articles or opinions written by legal experts discussing related issues. Through this approach, the researcher strives to build logical and systematic legal arguments to answer the research questions and provide a comprehensive understanding of the legal framework governing apartment ownership and land status.

B. Legal Provisions on Land Status in Apartment Construction Based on Law No. 20 of 2011

In Indonesia, with the dynamics of population growth and migration continuously increasing, cities and several regions face serious challenges in fulfilling the need for decent housing. Limited land available for housing and settlement development has become a major issue, especially in densely populated urban areas. Daily increases in population moving from rural to urban areas result in higher urban population density, which is not matched by available land. On the other hand, social reality shows that land ownership in cities tends to be concentrated among a few parties, leading to land accumulation or monopolization by economically powerful groups. This condition makes it difficult for the general public, especially lower-middle-class communities, to obtain land for independent housing construction.

Given this condition, local governments, especially in urban and large cities, are required to take strategic steps to respond to the land scarcity crisis and rising housing demand. One viable solution is promoting apartment construction as a form of vertical space utilization. This vertical housing model is considered an effective alternative to address land limitations while meeting people's needs for affordable and legally recognized housing.

According to Article 28H paragraph (1) of the 1945 Constitution, every citizen has the right to a prosperous life, both physically and mentally. This includes the right to adequate housing, a healthy living environment, and access to

adequate health services as part of fulfilling basic human needs. In line with this constitutional mandate, after the enactment of the UUPA, the government issued Minister of Home Affairs Regulation (Permendagri) No. 14 of 1975, regulating land rights registration, including ownership rights over building parts constructed on land, and procedures for issuing certificates as legal proof of ownership.

Following this, the government issued Permendagri No. 4 of 1977, which more specifically regulated land registration administration. This regulation provided legal clarity on collectively owned land and the management of building sections constructed on such land. More specific regulations on procedures and issuance of land rights certificates for collective ownership—particularly in the context of multi-story buildings such as apartments—were later formalized in Permendagri No. 10 of 1983. This regulation became an important guideline in the management of apartment ownership certification.

Juridically, apartment ownership has two main dimensions. First, individual or private ownership, i.e., rights over a specific apartment unit (Sarusun) held by an individual. Second, there is shared ownership, which includes three key elements: common parts (e.g., corridors and lobbies), common objects (e.g., elevators and stairs), and shared land that forms the foundation of the building. This concept is legally known as *Strata Title*, representing vertical ownership of a building consisting of multiple units, where each unit owner also holds a proportional share in the common building and land. This ownership model enables proportional rights distribution among unit owners over shared assets in a multi-story building.

Apartment construction must meet several mandatory requirements to ensure occupant comfort, safety, and overall building suitability. These include spatial conditions, structural integrity, and supporting facilities. Technical requirements for living spaces mandate adequate ventilation, natural lighting, and air circulation to support occupant health.

Structural components and building materials must be designed to withstand dead and live loads, as well as natural disasters such as earthquakes, heavy rain, and strong winds, with soil bearing capacity considered. Materials must meet quality and safety standards for long-term structural stability.

Apartment buildings must also be equipped with essential infrastructure, including clean water distribution systems, electrical and gas installations, wastewater disposal systems, communication facilities (telephone, internet), vertical circulation systems (stairs, elevators, escalators), emergency exits for fire evacuation, designated clothes-drying areas, and backup power generators, especially in buildings relying on elevators.

In addition to technical aspects, apartment construction must comply with administrative requirements as outlined in Article 6 of Law No. 16 of 1985 on Apartments. These include:

1. Business permits for construction by companies engaged in vertical housing development.
2. Location permits ensuring alignment with spatial planning and land use.
3. Building permits (IMB) supported by land ownership certificates, land use designation documents, and site plans.

Meeting these technical and administrative requirements ensures apartment construction proceeds according to established standards, guaranteeing occupant comfort and safety.

C. Implementation of Legal Provisions on the Right of Ownership over Apartment Units (HMSRS0 in Pekalongan City

The Pekalongan City Government established Mayor's Regulation (Perwali) No. 61 of 2012, which details procedures

for unit delineation, preparation of separation deeds, and issuance of SLF (Sertifikat Laik Fungsi/Building Function Certificate). This regulation aims to ensure clear legal status for each apartment unit and provide legal certainty for owners. With this rule, administrative and ownership processes for apartment units are expected to run in accordance with regulations, supporting orderly vertical housing management in Pekalongan City.

To obtain an SHM Sarusun, developers or builders must complete several administrative and technical stages as required by applicable regulations. The first step is preparing a *pertelaan*—a detailed document outlining the boundaries, dimensions, and locations of each apartment unit. Next, the developer must prepare a separation deed, describing the physical and ownership separation of the apartment unit based on the *pertelaan*.

After these documents are completed, the next step is to submit a request for approval to the Mayor or authorized official to obtain legal recognition. Crucially, before the National Land Agency (BPN) issues the SHM Sarusun, the apartment building must first obtain the Sertifikat Laik Fungsi (SLF), certifying that the building meets safety, security, and functional standards as per technical regulations. This process is essential to ensure full legal validity of the ownership rights.

In Pekalongan City, Rusunawa was developed as part of the local government's response to the city's dual identity: as a national batik industry center and a coastal (maritime) city. Most coastal communities, particularly fishermen in Pekalongan, still face serious challenges in accessing safe and decent housing. Recognizing this, the Pekalongan City Government deemed it essential to provide affordable and humane housing for low-income communities, especially fishermen and factory workers.

To implement this policy, the Pekalongan City Government designed the construction of a Rumah Susun Sederhana Sewa (Rusunawa) in Slamaran, Krapyak Lor

Village, North Pekalongan District. Construction began in 2004 and was occupied by residents in 2009. The Rusunawa consists of three blocks, each with 96 apartment units, totaling 288 units available for low-income residents.

The land used for Rusunawa was former bengkok land (state land), specifically located in Persil C1 Sk.47 S.III, Krapyak Lor, recorded under the Right to Use (Hak Pakai) status held by the Pekalongan City Government. This legal land status provides a solid legal foundation for the development and use of the Rusunawa.

The construction involved cross-sectoral collaboration among various SKPD (local government agencies): Bapermas proposed the program; Bappeda formulated technical and strategic plans; the Government Affairs Division facilitated land procurement and legalization; BPN issued the Hak Pakai certificate; and the Public Works Department (Dinas Cipta Karya) managed the physical construction. This strong inter-agency synergy and sound policy support made the Rusunawa project a tangible example of the local government's commitment to providing decent, affordable housing and strengthening Pekalongan's role as an economic and cultural center in Central Java's north coast region.

However, legal issues related to the management and ownership of apartment units (SRS), particularly in Rusunawa in Pekalongan City, reveal a discrepancy between national regulations and local administrative practices.

According to Law No. 16 of 1985 on Apartments, apartment ownership is divided into two certificate types: first, the master certificate (sertifikat induk), indicating collective ownership of shared land and common building parts; second, the individual SHM Sarusun issued to each occupant for their specific unit.

In the case of Rusunawa in Pekalongan, however, the applied land right is Hak Pakai (Right to Use), which is permitted by law for public service purposes or housing for low-income communities. In practice, Rusunawa

management is carried out unilaterally by the Pekalongan City Government through state administration, without involving private legal rights of the occupants. In other words, the relationship between Rusunawa tenants and the government is purely administrative, based on rental agreements, not permanent ownership.

Juridically, this poses a problem: the land certificate issued by BPN lists only one owner—the Pekalongan City Government—as the holder of Hak Pakai. There is no direct legal link or recognition of tenants through individual unit certificates as mandated by the Apartment Law. Thus, despite functioning as vertical housing, there is no valid individual ownership evidence for each resident over their dwelling unit.

This situation constitutes a fundamental deviation from legal principles set forth in Law No. 16 of 1985, which functions as *lex superior* (higher law), while operational regulations for Rusunawa are *lex inferior* (lower law), which should not contradict higher laws. Under the legal hierarchy principle, operational rules cannot override general and fundamental laws. This deviation arises from practical and social needs—providing decent housing for low-income groups—leading the government to adopt a rental scheme as a pragmatic solution without granting formal legal ownership. This reflects ongoing tension between practical needs and legal compliance, a persistent issue in apartment management across regions, including Pekalongan City.

Thus, the legal issues in Rusunawa management involve not only certificate administration but also misalignment between national legal frameworks and local policies, ultimately requiring regulatory evaluation and adjustment to ensure justice and legal certainty.

D. Conclusion

This research reveals that the legal regulation of apartment ownership, particularly Rusunawa in Pekalongan City, is not fully aligned with normative provisions in national

legislation. Although Law No. 16 of 1985 and Law No. 20 of 2011 establish a dual ownership system through the SHM Sarusun and master certificate, in practice, local implementation remains purely administrative, without granting individual legal ownership certainty to occupants. The Rusunawa policy implemented by the Pekalongan City Government—granting only rental status to occupants while retaining full land rights (Hak Pakai) under government name—reflects a deviation from established legal principles. This creates a misalignment between *lex superior* (national law) and *lex inferior* (local implementing regulations), potentially leading to legal uncertainty and weakened legal protection for residents.

The Pekalongan City Government should re-evaluate its Rusunawa management policies to align with national laws, particularly Law No. 16 of 1985 and Law No. 20 of 2011, which govern ownership and occupant legal protection. The National Land Agency (BPN) should actively participate in providing legal recognition for occupants, even if not in the form of absolute ownership. As a solution, the government could design limited ownership schemes, such as the Right to Residential Use (Hak Guna Hunian), to provide legal certainty while maintaining social justice. Increasing public legal literacy is crucial so that occupants understand their legal rights. Cross-sectoral collaboration among central and local governments, developers, and BPN is needed to create integrated, inclusive regulations that accommodate the needs of low-income communities.

E. References

- Devita, S. M. (2021). Perkembangan Hak Pengelolaan Atas Tanah Sebelum dan Sesudah Peraturan Pemerintah Nomor 18 tahun 2021 Tentang Hak pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, dan Pendaftaran Tanah. *Jurnal hukum Lex generalis*, 2(9), 870–888.
- Hutagalung, A. S. (2024). Dinamika Pengaturan Rumah Susun Atau Apartemen. *Jurnal Hukum Dan Pembangunan*, 34(4).

- Indah, D. (2022). Implementasi Kebijakan Pengelolaan Rumah Susun Sederhana Di Perkotaan. *Uwais Inspirasi Indonesia*.
- Maulidina, A. (2022). Pembangunan Rumah Susun di atas Tanah Barang Milik Negara Ditinjau dari UU Nomor 20 Tahun 2011 (Doctoral dissertation, Universitas Sumatera Utara).
- Mu'afa, A. S. (2022). Perancangan Rumah Susun Pengrajin Batik di Kota Pekalongan dengan Pendekatan Sustainable Development (Doctoral dissertation, Universitas Muhammadiyah Surakarta).
- Palenewen, J. Y. (2023). Hak Dan Kepemilikan Rumah Susun Perspektif Undang-Undang Nomor 20 Tahun 2011. Penerbit Widina.
- Pangerang, C. H., Nur, S. S., & Arisaputra, M. I. (2021). Hak Kepemilikan Perumahan Di Atas Bangunan Gedung Komersil. *Batulis Civil Law Review*, 2(2), 166–177.
- Paramita, I. M. (2022). INOVASI KEBIJAKAN & TATA KELOLA PERKIM: Menuju Indonesia Emas 2045. Caritra.
- Rubiati, B. (2023). Kepemilikan rumah susun umum yang dibangun di atas tanah barang milik negara/daerah. *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan*, 6(2), 206–220.
- Siti As'adah Hijriwati, S. Z. (n.d.). IMPLEMENTASI PENCANANGAN KEBIJAKAN KAWASAN BEBAS KUMUH MELALUI HUNIAN MODEL RUSUNAWA (Rumah Susun Sederhana Sewa) DI KOTA PEKALONGAN. *Jurnal Unikal*, 2022.

Acknowledgment

Recognize those who helped in the research, especially

funding supporter of your research. Include individuals who have assisted you in your study: Advisors, Financial support, or may other parties involved on the research.

Funding Information

Please provide funding information of the research

Conflicting Interest Statement

Please state any conflicting interests of this publication and research. If there is no, please type: 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

Authors must acknowledge the use of AI in their work to ensure transparency and maintain trust with their audience. As generative AI becomes an integral tool for content creation, it is crucial to disclose its involvement in the process. This helps clarify the role AI played in generating ideas, drafting text, or enhancing creativity. Acknowledging AI usage also supports ethical standards, ensuring that authorship remains clear and that credit is properly attributed. Such transparency fosters responsible AI integration and upholds the integrity of both the creative process and the final work.