

FURTHER REGULATION ON FOREIGN OWNED PROPERTY

Following the issuance of Government Regulation No. 103 of 2015 on the Ownership of Houses or Housing by Foreigners Domiciled in Indonesia dated 22 December 2015 (“**GR 103/2015**”), the government, through the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (“**MOA**”) issued Regulation No. 29 of 2016 on The Procedure for Granting, Releasing and Transferring Ownership of Houses or Housing to Foreigners Domiciled in Indonesia on 26 September 2016 (“**MOA Reg. 29/2016**”) to replace the previous regulation, MOA Regulation No. 13 of 2016, as it was considered suboptimal. MOA Reg. 29/2016 was issued to implement Article 11 of GR 103/2015, which required further guidelines for foreigners seeking to own houses or other forms of residential property (“**Residential Property**”) or wishing to release or transfer their rights over Residential Property.

Under MOA Reg. 29/2016, foreigners domiciled in Indonesia and holding a valid stay permit may own houses or housing under a Right of Use (*Hak Pakai*). According to Article 41 of Law No. 5 of 1960 (Agrarian Law), a Right of Use is a right to use and / or harvest produce grown on land that is directly controlled by the State or owned by another party(-ies), which gives authority to and imposes obligations on the holder specified in the decision made by the authority or in an agreement with the owner of the land, which is not a lease agreement or a land cultivation agreement (*perjanjian pengolahan tanah*), as long as it is not contrary to the spirit or provisions of the Agrarian Law. The Right of Use is inheritable, transferable, and may be secured under a *Hak Tanggungan* (the nearest equivalent in Indonesia to a mortgage).

Types of Land Title

Foreigners can hold the following types of property rights:

1. Individual houses constructed on land under: i). a Right to Use (*Hak Pakai* – “**HP**”); ii) a Right to Use (HP) over Freehold Title (*Hak Milik* – “**HM**”) occupied under an agreement granting a Right to Use over Freehold Title (*Hak Pakai atas Hak Milik*) drawn up in a Deed made by a Land Official; or iii) a Right to Use (HP) derived from the transformation of a Freehold Title (HM) or a Right to Build (*Hak Guna Bangunan* – “**HGB**”).
2. Apartment units in a building built on land: i) under a Right to Use (HP); ii) derived from the transformation of Freehold Title to an Apartment Unit (*Hak Milik Atas Satuan Rumah Susun*).

Limits on Residential Property Ownership

Foreigners may only purchase Residential Property which meets with the following requirements:

1. minimum price thresholds:

Location	Value of the Property (IDR)	
	Individual House (>)	Apartment (>)
DKI Jakarta	10 billion	3 billion
Banten	5 billion	2 billion
West Java	5 billion	1 billion
Central Java	3 billion	1 billion
Jogjakarta	5 billion	1 billion
East Java	5 billion	1.5 billion
Bali	5 billion	2 billion
West Nusa Tenggara	3 billion	1 billion
North Sumatera	3 billion	1 billion
East Kalimantan	2 billion	1 billion
South Sulawesi	2 billion	1 billion
Other locations	1 billion	750 million

2. other requirements: a) 1 (one) plot of land per person/family; and b) the area of the land cannot be more than 2,000 (two thousand) square meters;

3. in certain circumstances, the MOA may grant foreigners who have a significant positive impact on the economy an area of land of more than 2,000 (two thousand) square meters;

4. the limits in 1 and 2 above do not apply to Residential Properties owned by Representatives of Foreign Countries and/or International Agencies.

Ownership Terms

Type of Property	Type of Land the Property is (to be) built on	Term
Houses	Land under a Right to Use (HP)	30 (thirty) years, extendible for a further 20 (twenty) years and then renewable for another 30 (thirty) years.
	Land under a Right to Use over a Freehold Title (Hak Pakai atas Hak Milik) (under an agreement)	30 (thirty) years, extendible for a further 20 (twenty) years and renewable for another 30 (thirty) years as agreed with the holder of land title.
	Land under a Right to Use (HP) derived from a Freehold Title (HM) due to a sale and purchase, grant, exchange (tukar menukar), auction, or other transaction under Article 6 (1) of MOA Reg. 29/2016.	30 (thirty) years, extendible for a further 20 (twenty) years and renewable for another 30 (thirty) years.
	Land under a Right to Use (HP) derived from a Right to Build (HGB) due to a sale and purchase, grant, exchange (tukar menukar), auction, or other transaction under Article 6 (1) of MOA Reg. 29/2016.	For the remainder of the term of the Right to Build (HGB), extendible for a further 20 (twenty) years and renewable for another 30 (thirty) years.
Apartment Units	Land under a Right to Use (HP)	There is no specific provision on the ownership term of an apartment unit. Arguably, this should follow that of the Right to Use (HP) over land.
	A Right to Use over an Apartment Unit (Hak Pakai Atas Satuan Rumah Susun) which was first obtained from the holder of the new Freehold Title to the	30 (thirty) years, extendible for a further 20 (twenty) years and renewable for another 30 (thirty) years.
	A Right to Use over an Apartment Unit (Hak Pakai Atas Satuan Rumah Susun) derived from a Freehold Title to an Apartment Unit (Hak Milik Atas Satuan Rumah Susun) under Article 6 (2) of MOA Reg. 29/2016.	For the remainder of the term of the Freehold Title to the Apartment Unit (Hak Milik Atas Satuan Rumah Susun), extendible for a further 20 (twenty) years and renewable for another 30 (thirty) years.

- Notes:

1. If individual houses constructed on land under a Right to Use (HP) derived from the conversion of a Freehold Title (HM) or a Right to Build (HGB) will be transferred to Indonesian Citizens, the Right to Use (HP) can be converted back to a Freehold Title (HM) or a Right to Build (HGB); and
2. If a Right to Use over an Apartment Unit (Hak Pakai Atas Satuan Rumah Susun) derived from a Freehold Title to an Apartment Unit (Hak Milik Atas Satuan Rumah Susun), will be transferred to Indonesian Citizens, it can be converted back to a Freehold Title to an Apartment Unit (Hak Milik Atas Satuan Rumah Susun).



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