

FOREIGNERS TO HOLD PROPERTY IN INDONESIA

The rising number of foreigners working in Indonesia, as a consequence of the ASEAN Economic Community, has prompted the Indonesian Government to re-regulate the status of foreign ownership of property in Indonesia. Government Regulation No. 103 of 2015 on the Ownership of Houses or Housing by Foreigners Domiciled in Indonesia (“**GR 103/2015**”) was issued to replace and amends the old regulation, Government Regulation No. 41 of 1996. In general, the regulation’s provisions on the possibility of foreigners “owning” property in Indonesia are clearer and more detailed, and new provisions have been added.

Definition of a Foreigner.

Foreigners who are permitted to own property must be domiciled in Indonesia and hold a stay permit (*Izin Permit*). Their presence must be to Indonesia’s advantage, whether they are working or investing in Indonesia.

Previously, only foreigners who had invested in Indonesia could own property.

Types of Land Title.

Foreigners can own the following types of property:

1. Individual houses constructed on land under a Right to Use (*Hak Pakai*), or a Right to Use over a Freehold Title (*Hak Milik*) occupied under an agreement granting a Right to Use over the Freehold Title drawn up in a Deed made by a Land Official.
2. Apartment units in a building built on land under a Right to Use.

Status of Newly Bought Houses/Apartment Units.

Foreigners can be given a Right to Use (*Hak Pakai*) for a newly bought house, and Freehold Title to an Apartment Unit on a Right to Use (*Hak Milik atas Satuan Rumah Susun di atas Hak Pakai*) for a newly bought apartment unit.

Term of Ownership.

1. Individual House on a Right to Use.

The initial term of ownership is 30 years, which can be extended for a further 20 years and then renewed for another 30 years.

2. Individual House on a Right to Use under an Agreement.

The initial term of ownership depends on the agreement, but may not be more than 30 years. It can then be extended for up to 20 more years and then renewed further for up to 30 years, in accordance with the agreement.

This agreement must be recorded in the land register (buku tanah) and in the relevant land certificate.

In line with the definition of a foreigner above, both the extension and the renewal should be possible as long as the foreigner still holds a stay permit.

For apartment units, there is no specific provision on the terms of ownership of an apartment unit. Arguably, this should follow the term of the Right to Use over the land because foreigners may only own apartment units in a building erected on land under a Right to Use.

Under Article 41 of Law No. 5 of 1960 on the Basic Agrarian Law, a Right to Use can be issued for a certain term or as long as the land is used for the designated purpose. Therefore, the term of ownership of an apartment unit by a foreigner can be either clearly finite (for a certain term) or finite but subject to whether the land use changes from housing/apartments to another type of land use.

Inheritance.

If a foreigner owning a house/apartment unit passes away, the house/apartment unit can be inherited. If the heirs are also foreigners, they can only inherit the house/apartment unit if they hold a stay permit.