



## Upgrading Building use Rights to Ownership Rights in the Purchase of Subsidized Houses

Lalu Al Hilal Khozaizi <sup>1\*</sup>, Zainal Asikin <sup>2</sup>, Lalu Wira Pria Suhartana <sup>3</sup>

<sup>1-3</sup> Faculty of Law, Social Sciences and Science Politics, University of Mataram, Indonesia

\* Corresponding Author: **Lalu Al Hilal Khozaizi**

### Article Info

**ISSN (online):** 2582-7138

**Volume:** 06

**Issue:** 03

**May-June 2025**

**Received:** 14-04-2025

**Accepted:** 09-05-2025

**Page No:** 1042-1050

### Abstract

Study This aims to analyze the arrangement law increase in Building Use Rights become the Ownership of land in purchase House subsidies to Limited Liability Companies Rinjani Salwa Lowangi and To analyze the implementation increase in Building Use Rights become the Ownership of land in purchase House subsidies at PT. Rinjani Salwa Lowangi. The research method used is to study normative-empirical law, whereas the approach used is to approach legislation, conceptual, and case. Research results can be concluded that rules for others who become support giving and also improvement right in purchase House subsidy has poured out in regulation Decree of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 6 of 1998 concerning Granting of Ownership Rights land For House stay, Law Number 4 of 1992 concerning Housing and Settlement, Regulations Government Number 24 of 1997 concerning Registration Land and Regulations Government Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Registration and Application improvement right from Building Use Rights to Ownership Rights at PT. Rinjani Salwa Lowangi walk with good. Against purchase House subsidies to PT. Rinjani Salwa Lowangi As a developer, the developer helps in the process of improving the right to purchase House subsidy with Notaries and Officials. Maker Land Deed designated by the developer alone For help the improvement the right process.

**DOI:** <https://doi.org/10.54660/IJMRGE.2025.6.3.1042-1050>

**Keywords:** Increase in Building Use Rights, Ownership Rights, Subsidized Housing

### Introduction

Every human being has interests, specifically interests in an individual or group demand that is expected to be fulfilled. Every human being is a supporter or bearer of interests. Humans are often surrounded by various dangers that threaten their interests, which often prevent them from being achieved. Humans want their interests to be protected from the dangers that threaten them [1].

Article 28 H paragraph 1 of the 1954 Constitution states that "everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to receive health services". The state is responsible for protecting all Indonesian people by providing housing and residential areas so that people can live and occupy decent and affordable houses in healthy, safe, harmonious, and sustainable housing throughout the territory of the Republic of Indonesia.

**This unbalanced condition of land needs and availability continues and will cause problems in land use, including:**

- Reduction in the area of fertile agricultural land to become residential land for industry and non-agricultural purposes;
- The occurrence of clashes of interests in various development sectors (for example between forestry and transmigration,

<sup>1</sup> Sudikno Martokusumo, Understanding the Law of an Introduction mold third, Liberty Yogyakarta, Yogyakarta, 2007, p.1

- c. mining and plantations and so on);
- d. The decline in the quality of residential environments due to flooding, lack of clean water both in terms of quantity and quality;
- e. The expansion of critical land due to land use that is not in accordance with its potential, resulting in erosion, flooding and sedimentation;
- f. The use of land for various activities will produce waste that can cause water and air pollution.

Land rights are rights that authorize the holder of the rights to use or take advantage of the land he owns. The word "use" implies that the land rights are used to construct buildings, while the word "take advantage" implies that the land rights are used for purposes other than constructing buildings, for example agriculture, fisheries, animal husbandry, plantations [2].

Based on the provisions of Article 4 paragraph 2 of the Basic Agrarian Law, hereinafter abbreviated as UUPA, the holder of land rights is given the authority to use the land in question, as well as the earth's body, water, and the space above it only as required for direct interests related to the use of the land within the limits according to UUPA and other higher legal regulations [3].

#### **The hierarchy of land tenure rights in national land law is: [4]**

1. The rights of the Indonesian people to land;
2. The State's right to control land;
3. Customary rights of customary law communities;
4. Individual rights include:
  - a. Land rights;
  - b. Land ownership waqf;
  - c. Security rights over land;
  - d. Ownership rights to apartment units.

Land is the primary means of the natural environment that provides functional meaning for society, especially for houses as human residences. In reality, many landowners still do not have land certificates as proof of ownership of land rights. Humans will maintain the land as hereditary wealth if they have obtained land. Decree of the Minister of State Agrarian / Head of the National Land Agency No. 6 of 1998 explains that land is a place for human habitation and can be used to live comfortably and peacefully without any disturbance as long as it is based on applicable laws.

Land as the basis for a house building for residential facilities plays a crucial role in people's lives. Land rights are related to the legal status of all land areas whose rights will be applied for and regulations regarding land status cannot be separated from its existence in a country of law. Granting Ownership Rights for residential houses through increasing land rights is the granting of Ownership Rights from those still with Building Use Rights status. If the Building Use Rights term expires, and the land rights holder does not carry out the renewal process again, then the land becomes State

land. For this reason, rights holders must always pay attention to the renewal of their Building Use Rights again.

To provide legal certainty and protection to holders of land rights or other registered rights so that they can easily prove that they are the holders of the rights to the land in question, holders of Building Use Rights converted into Ownership Rights for residential homes receive a certificate. The certificate is issued for the benefit of the holders of the rights in question with physical data and legal data of the land that has been registered in the land book and is submitted to the party whose name is listed in the land book in question as the holder of the rights or to another party authorized by him [5]. Transfer of land rights is divided into two forms. The first is transfer of land rights or ownership rights to a condominium unit from the rights holder to another party because the rights holder dies or through inheritance. Second, transfer, namely the transfer of land rights or ownership rights to a condominium unit from the rights holder (subject) to another party. Another because of a legal act that is intentionally carried out with the aim that the other party obtains the rights. <sup>6</sup>The transfer of rights to a plot of land is a legal event of transferring ownership rights to a plot of land from one rights holder to the person transferred to the rights. The transfer of rights is included in legal acts that are carried out intentionally with the intention that the rights to the land are transferred from the person who transfers the rights to the recipient of the rights [7].

In this regard, various types of land rights, according to the provisions of the UUPA, are to meet the needs of land rights holders and provide changes to land rights that they already own into other types of land rights. Changes to land rights into other land rights consist of the release of the original land rights that are controlled by the determination of the granting of new land rights. The community that will implement it must be based on the Decree of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 6 of 1998 and must meet the requirements for increasing land rights, namely having a Building Permit (IMB) and the original Building Use Rights certificate must be submitted to the Land Office.

There is no requirement for payment of Land and Building Acquisition Rights (BPHTB) when registering building use rights to become ownership rights. A house is a primary human need after food, so there needs to be legal certainty to guarantee Indonesian citizens' need for a home and the continuity of their rights to the land where the house stands. Based on Article 19 of Law Number 1 of 2011 concerning housing and residential areas, it reads as follows:

- a) The provision of houses and housing is carried out to fulfill the need for housing as one of the basic human needs for increasing and equalizing people's welfare;
- b) The provision of houses and housing, as referred to in paragraph 1, is carried out by the government, regional government, and/or every person to guarantee the rights of every citizen to occupy, enjoy, and/or own a decent house in a healthy, safe and orderly environment.

<sup>2</sup>J. Andy Hartanto, Land Law ( Characteristics of Land Sale and Purchase Where Land Rights Have Not Been Registered ), LaksBang Justitia Surabaya, Surabaya, 2020, pp. 1-2.

<sup>3</sup> Urip Santoso, Agrarian Law and Land Rights, Golden Prenada Media Jakarta, 2009, p. 11.

<sup>4</sup> Ibid.

<sup>5</sup>Irma Devita Purnamasari, Smart, Easy, and Wise Tips for Overcoming Land Law Issues, Bandung, Kaifa, 2010, p.73.

<sup>6</sup> Nuridin *et al.*, Registration Transfer of Land Rights Due to Sale and Purchase, Journal Legal Science, Vol.8 No.2, Pancasakti University, Tegal, 2020, p.6.

<sup>7</sup> Fran's Hidayatulloh *et al.*, Legal Defects in the Transfer of Land Rights, Journal Legal Science, Vol.1 No.1, Sunan Ampel State University, Surabaya, 2023, p.2.

**Housing development includes:** <sup>[8]</sup>

- a) Construction of houses and infrastructure, facilities and public utilities; and/ or
- b) Improving the quality of housing.

The construction of houses is carried out by depicting environmentally friendly technology and development plans and developing a building materials industry that prioritizes domestic resources and local wisdom that is safe for health. Residential areas are implemented to realize areas that function as residential environments and places of activities that support planned, comprehensive, integrated, and sustainable life and livelihoods under the spatial plan. The provision of land for residential houses and settlements is regulated in Chapter IX, articles 106 and 107, which read as follows:

Based on Article 106, the provision of land for the construction of houses, housing and residential areas can be done through:

- a) Granting of land rights to land directly controlled by the state;
- b) Land consolidation by landowners;
- c) Transfer or release of land rights by the land owner;
- d) Utilization and transfer of state-owned or regional land under the provisions of laws and regulations;
- e) Utilization of state land that was formerly abandoned land; and/or
- f) Land acquisition for development in the public interest under statutory regulations.

Article 107 states that land controlled directly by the state, as intended in Article 106, and used for building houses, housing, and/or residential areas is handed over by granting land rights to every person who builds houses, housing, and residential areas.

Based on the background described above, the main problem is the legal regulation for upgrading Building Use Rights to Land Ownership Rights at PT and the implementation of upgrading Building Use Rights to Land Ownership Rights in purchasing subsidized houses at PT. Rinjani Salwa Lowangi?

**Research Methods**

The type of research used by the author in this writing is normative-empirical legal research. In empirical legal research, the study focuses on legal norms and the application of law in society. The approach method used in the study is: First, the legislative approach is an approach taken to examine problems related to the proposal on the power of e-stamps on electronic documents, namely the Civil Code and Number 86 of 2021 concerning Procurement, Management, and Sale of Stamps. This approach analyzes various laws and regulations related to stamps. *Second*, the conceptual approach is an approach taken by referring to legal concepts, namely through the views of scholars, legal doctrines, and legal principles relevant to the legal issues faced. Understanding these views and doctrines is a basis for this research in building a legal argument in solving the legal issues faced <sup>[9]</sup>. According to positive law in Indonesia, this

conceptual approach is used to understand the legal regulations on the legal force of electronic stamps in electronic documents. Third, the case approach reviews cases related to the issues that have become court decisions with permanent legal force (Inkracht) <sup>[10]</sup>.

The data collection technique through interview techniques, namely collecting data directly through questions and answers based on a list of questions that have been prepared and conducting structured interviews regarding how the implementation of increasing building use rights to land ownership rights in the purchase of subsidized houses, whether the implementation of growing building use rights has been running as it should and spontaneous interview questions when researchers conduct field observations.

Data analysis in this study was conducted by collecting field data obtained by the author from interviews. The author will analyze the problems with legal materials or secondary and tertiary data (if necessary) that have been selected qualitatively and then linked to the results of interviews or field data in the form of interview results obtained by the author, then analyzed and described systematically. Furthermore, the data is selected and processed and then stated descriptively so that in addition to defining and expressing the study results, it can also provide solutions to the legal problems.

**Discussion****1. Legal Arrangement of Upgrading Building Use Rights to Land Ownership Rights at PT. Rinjani Salwa Lowangi**

Building Use Rights, hereinafter abbreviated as HGB, are rights granted as land ownership for a particular time by the government. Land ownership is in the form of management that grants land rights based on the provisions of the UUPA (Basic Agrarian Law). The HGB is the right to land ownership, which aims to limit land use where land rights are only for building buildings so that the HGB is not permitted for agriculture, plantations, livestock, mining, and the like. Only allowed for offices, industry, shops, hotels, flats or run, and uses in the form of buildings under Article 86 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, abbreviated as Permen Number 18 of 2021 <sup>[11]</sup>.

Article 36 Paragraph 1 of the UUPA states that those who can own HGB are Indonesian citizens and legal entities. Legal entities are established under Indonesian law and domiciled in Indonesia, meaning foreign citizens are not entitled to the HGB. This statement is a form of legal certainty that refers to implementing transparent, permanent, and consistent laws where subjective circumstances do not influence the implementation to provide clarity and certainty regarding the law's implementation in this country <sup>[12]</sup>.

Shifts often occur, where land use and land control are obtained and obtained by several small groups of people. Currently, there are various efforts to revive land policies that can restore the balance as desired and expected by the UUPA.

<sup>8</sup> See Article 32 of the Republic of Indonesia Law Number 1 of 2011 concerning Housing and Residential Areas.

<sup>9</sup> Zainal Asikin and Amiruddin, Introduction to Legal Research Methods, Revised Ed., 3rd Printing, Rajawali Pers, Depok, 2018, p. 166.

<sup>10</sup> Peter Marzuki, legal research revised edition, Bandung: PT. Kharisma Putra Utama, 25, p. 134

<sup>11</sup> Look Article 86 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights

<sup>12</sup> See Article 36 Paragraph 1 of Law Number 5 of 1960 concerning Main Points Agrarian

The method offered to realize this is by implementing a prismatic land law policy that adheres to the following principles:<sup>[13]</sup>

- 1) Principles of Land Rights
- 2) Principle of Clarity of Land Origin
- 3) Principles of Land Improvement Law
- 4) Principle of Increasing Transfer of Rights with Legal Certainty (Not Legally Defective)
- 5) HGB Payment Acquisition Principles

The Directorate General of Infrastructure Financing of the Ministry of PUPR explained that subsidized houses are built at affordable prices through the Home Ownership Credit (KPR) scheme, conventionally or with a Sharia scheme. The

main goal is to ensure that anyone can have their own home, especially low-income people (MBR). Subsidized houses themselves have differences with non-subsidized houses or houses in general, namely starting from the price, which is quite different, house specifications to the tenor and amount of installments that must be paid regularly. In the purchase of subsidized houses, there is also a term Subsidized KPR, which means credit in home ownership that receives assistance from the government in the form of long-term cheap funds issued by the Implementing Bank.

The differences between subsidized housing and non-subsidized housing (commercial housing) are explained in the following table:<sup>[14]</sup>

**Table 1**

<b>Subsidized Housing</b>	<b>Commercial / Non- Subsidized Houses</b>
House price subsidies are cheaper Because they get help from the government.	Commercial houses sell at a relatively higher price than the existing piece price.
Size House subsidy maximum as much as 36 m2 or House type 36.	Size House commercials are more varied and can adapt to needs or budgets.
Facility housing area subsidies tend limited without existence, something special and different.	Commercial houses usually own various facility additions like park play until pool swimming or clubhouse located nearby housing area.
House location subsidies are usually located in edge city and enough to accessed	Commercial house you can find it at anywhere with easy, appropriate with the budget you have.
Subsidized housing No may change or renovate for at least 2 years after occupying the house.	Owners can do Renovation house commercial during No damage order from the complex housing are inhabited.

Article 94 of Government Regulation Number 18 of 2021 states, "Building use rights and use rights owned by Indonesian citizens, which are used and utilized for residential homes including shophouses and office buildings, may be granted ownership rights upon application from the rights holder."

**Article 8 of Government Regulation of the Republic of Indonesia Number 18 of 2021 stipulates that:**

1. The minister gives Building use rights above state land decision-making rights.
2. Building use rights above land rights management are given decision-making rights by the minister based on agreement holder proper management.
3. Building use rights above land rights owned by happen through giving rights by the holder of the right owned by with a deed made by an official Maker of Land Deed.
4. The decision as referred to in paragraph (1) and paragraph (2) and the deed made by the Official Maker Land Deed as referred to in paragraph (3) may made in a way electronics.

Therefore, according to the provisions of Article 94 of Government Regulation Number 18 of 2021 above, it can be understood that the transfer of status of Building Use Rights

and Usage Rights can occur if an application has been submitted for a transfer of status from the original HGB status to Ownership Rights. Land rights can change their status to new land rights of a different type. The definition of a change of rights is contained in Article 1 Number 11 of the Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning the Delegation of Authority to Grant and Cancel Decisions on Granting Rights to State Land, which states that: "Change of Rights is a government stipulation regarding the confirmation that a plot of land that was originally owned with a certain land right, at the request of the rights holder, becomes state land and at the same time grants the land to him with the rights to the land to him with other types of land rights"<sup>[15]</sup>.

**There are two types of changes in status, namely, a reduction in land rights and an increase in land rights.**

The upgrade of HGB to Ownership Rights is a form of enforcement and affirmation related to eliminating the original/original land rights for granting new land rights. The mortgage rights that burden it are automatically eliminated with the elimination of the original land rights. Regarding the upgrade of HGB to Ownership Rights, it is regulated in the Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency that HGB and Right of Use of land

<sup>13</sup> Nurhasan Ismail, Direction of Land Law Politics and Protection Community Land Ownership, Journal Rechtvindig, Vol. 1 No. 1, Gajah Mada University Yogyakarta, Pg. 40.

<sup>14</sup> Sexy Legal Information- Ditama Binbangkum, Subsidized Housing, Through : <http://jdih.bpk.go.id> , Accessed February 15, 2025, 15.03 WITA.

<sup>15</sup> Decree of the Minister of State for Agrarian Affairs / Head of the National Defense Agency Number 3 of 1999 on Delegation Authority Granting and Cancellation of Decisions on Granting Rights to State Land.



owned by Indonesian citizens as a house for residence with various conditions that have been determined and stipulated. The upgrade of HGB to Ownership Rights is recommended by law because Ownership Rights are the highest rights regulated by the UUPA, and their term is not limited like other land rights <sup>[16]</sup>.

Based on the Regulation of the Minister of ATR/Head of BPN 1339/2022 concerning the granting of land rights in general to change Building Use Rights to Ownership Rights, the following provisions must be met:

1. Residential home belonging to individual Indonesian citizens;
2. The extent up to 600m<sup>2</sup>
3. Submit application
4. Building rights Still applicable or have ended
5. On behalf of the holder rights that still exist life or die
6. Released by the holder proper management with letter approval/recommendation giving right owned by on part land proper management For House stay that is on correct management.

Related improvement rights that become study writer in thesis This is about the increase in Building Use Rights become Ownership of the housing subsidy. One housing area subsidy, according to Masturbation, is a housing area for public earning intermediate to lower or called "subsidized" housing, which is meant to fulfill the needs of housing. The subsidy is said to be obtained through the subsidy government. The form of grant offered is grant relief credit and grants for additional funding development or housing repair. Credit subsidy This is set up individually by the government and may be unavailable for all cities <sup>[17]</sup>.

In the results, the interview writer with Mr. Efendy as part of the Administration at PT. Rinjani Lowang's Salwa related to the regulation of increasing rights, explaining that related to the Building Use Rights certificate with the Ownership Rights Certificate, if the HGB is a certificate that has a validity period while the Ownership Rights do not have a validity period, this SHGB has a validity period of 25 years to 35 years and the validity period can be extended, while the SHM is a certificate that has the highest legal force against the person holding the rights to the land <sup>[18]</sup>.

Mr. Efendy also explained that, in my opinion, increasing land rights is a series of activities that the land rights holder must carry out regarding the land he owns. The requirements that must be met in upgrading SHGB to SHM are original certificates and personal data such as KTP, KK, NPWP, and so on. We submit these requirements to the Notary-PPAT, and later, the notary will carry out the process of increasing the Rights, so we from PT. Rinjani salwa Lowang only submit the required requirements.

The housing subsidy policy in Indonesia is a government policy that aims to provide decent housing for the community, especially for low-income people (MBR). In

addition, the subsidy policy in the housing sector will also increase MBR access to housing and accelerate housing development in Indonesia. Law Number 4 of 1992 concerning Housing and Settlements is essential in providing opportunities for low-income people (MBR) to own a house. <sup>[19]</sup> The law provides a legal basis for the government to MBR so that they can have decent housing at affordable prices.

In the interview results conducted by the author with Mrs. Baiq Mega Desawati as Director of PT. Rinjani Salwa Lowangi explained that for the current need for subsidized housing in Central Lombok, there is still quite a lot of development that is still a little vulnerable. Central Lombok is not as popular for housing developers as Mataram City or West Lombok. For the increase in rights from Building Use Rights to Ownership Rights, of course, we follow the rules that are the basis for applying increasing rights; of course, in this increasing process, we always work together with Notaries/PPAT and the West Lombok Regency Land Agency <sup>[20]</sup>.

From the interview results, Mrs. Baiq Mega Desawati also explained that at PT. Rinjani Salwa Lowangi, we constantly update the rules regarding subsidized houses, both in providing subsidized houses to the community, increasing rights from HGB to HM, and other regulations that support the provision or increase of rights. in purchasing subsidized houses. As in the regulation of the Decree of the Minister of State for Agrarian Affairs / Head of BPN No. 6 of 1998 concerning the granting of Ownership Rights to land for residential houses, Law Number 4 of 1992 concerning Housing and Settlements, Government Regulation Number 24 of 1997 concerning Land Registration.

In the author's research at PT. Rinjani Salwa Lowangi, the author, also interviewed Mr. Efendy, who explained as follows that: <sup>[21]</sup> Before I explain the difference between a Building Use Rights Certificate and an Ownership Rights Certificate, I will first explain what a land rights certificate is, as explained in Article 1 of Government Regulation Number 24 of 1997 concerning Land Registration, which explains that a certificate is a proof of rights for land rights, management rights, waqf land, ownership rights for apartment units and mortgage rights, each of which has been recorded in the land book. In other words, the certificate is proof of rights that provides legal certainty and protection for the holders. Thus, we will discuss building use rights in relation to ownership rights. Building Use Rights are rights usually controlled by companies, which are typically referred to as HGB; companies traditionally own this HGB and are rarely owned by individuals, and vice versa; ownership rights are usually owned by individuals and are seldom owned by companies. The results of an interview with the Head of the National Land Agency of Central Lombok Regency, namely Subhan, SH., explains that the Terms and procedures for granting rights are generally regulated in the second part, paragraph I regarding the granting of Ownership Rights to land for residential homes, in the Regulation of the Minister of

<sup>16</sup> Yuriyaya, Review Legal Process of Transfer of Building Use Rights Belonging to the Ownership According to Regulation Government of the Republic of Indonesia Number 18 of 2021 Concerning Management Rights, Land Rights, Apartment Units and Land Registration, Journal Legal Science, Vol. 5, No. 02, Merdeka University of Pasuruan, 2023, Pg. 50.

<sup>17</sup> Nur. Adawiyah Harahap *et al.*, Analysis Policy Housing area Subsidies in Indonesia, Journal of Islamic Economics and Business Studies, Vol 5, No. 6, State University of Medan, 2024, Pg 3.

<sup>18</sup> Interview results with Mr. Efendy, as staff Administration PT. Rinjani Salwa Lowangi Central Lombok, West Nusa Tenggara, at 13.45-14.00 WITA, Thursday, February 6, 2025.

<sup>19</sup> See Law Number 4 of 1992 concerning Housing and Settlements

<sup>20</sup> Interview results with Baiq Mega Desawati, as Director PT. Rinjani Salwa Lowangi Central Lombok, West Nusa Tenggara, at 13.20-14.00 WITA, Thursday, February 6, 2025.

<sup>21</sup> Interview results with Mr. Efendy, as staff Administration PT. Rinjani Salwa Lowangi Central Lombok, West Nusa Tenggara, at 13.45-14.00 WITA, Thursday, February 6, 2025.

Agrarian Affairs / Head of BPN No. 9 of 1999 concerning the procedures for Granting and Cancellation of Rights to State Land and Management Rights. The regulation covers how to apply, information regarding the applicant's identity, and information regarding the object, including the land's number, area, and status. The regulation is also our reference here when there is an entry at the counter regarding an application to increase the rights of subsidized homeowners from HGB to HGM<sup>[22]</sup>.

If analyzed using the Theory of Legal Certainty, where legal certainty is a matter (condition) that is certain, the law must essentially be specific and fair. Legal certainty is a question that can only be answered normatively, not sociologically. Legal certainty normatively is when a regulation is made and enacted with certainty because it regulates with certainty and logic.

Certainty as one of the objectives of law and can be said to be an effort to realize justice. The real form of legal certainty is the implementation and enforcement of the law against an action regardless of who does it. With legal certainty, everyone can predict what will happen if they do the legal action, certainty is vital to realize justice. Certainty is one of the characteristics that cannot be separated from the law, especially for written legal norms. Law without certainty will lose its meaning because it cannot be used as a guideline for behavior for everyone<sup>[23]</sup>.

Suppose the author analyzes using the theory of legal certainty. In that case, the author feels that the state's certainty regarding regulations regarding the increase in rights has sufficiently guaranteed legal certainty for applicants to the rise in rights. Where in the Regulation of the Minister of Agrarian Affairs / Head of BPN No. 9 of 1999 concerning the Procedures for Granting and Cancelling Rights to State Land and Management Rights, the application method, information regarding the identity of the applicant, information regarding the object, including the number, area, and status of the land, and the current year's PBB SPPT have been determined.

The theory is connected to the legal act of increasing the status of land rights from Building Use Rights to Ownership Rights, so that the community does not worry that the status of the land occupied by their house will expire anytime. Based on such regulations, the guarantee of legal certainty and protection of legal subjects' rights and obligations is one of the goals and functions to be achieved, namely the law. The law aims to create order, legal certainty, justice, and benefits. The existence of legal regulations, namely the Regulation of the Minister of Religion/Head of BPN regarding changes or improvements to HGB and Use Rights to Ownership Rights to prioritize the interests of the parties, shows that our law is trying to be used to realize legal protection and protection of the rights of the parties.

The theory of legal certainty is a form of justice for rights holders who want to upgrade their rights from HGB status to HM. The justice referred to in this case includes the process, requirements, and period for upgrading these rights. The period for extending HGB has been stated in PP Number 18 of 2021. In terms of certainty, the National Land Agency plays a crucial role in realizing legal certainty for upgrading Rights to subsidized houses and is supported by laws and

regulations that guarantee legal certainty.

## **2. Implementation of upgrading building use rights to land ownership rights in the purchase of subsidized houses at PT. Rinjani Salwa Lowangi**

Based on Law Number 4 of 1992 concerning Housing and Settlements which states that housing and settlements are basic human needs and have an important role in the formation of character and personality of the nation and need to be fostered and developed for the sake of the continuity and improvement of human life<sup>[24]</sup>. Therefore, the benefits of housing development must be fair and equitable, especially for economically weak communities that lack adequate facilities. One of the main elements of people's welfare is the fulfillment of housing and settlements in addition to clothing and food, which are basic needs for every citizen of Indonesia.

### **In the government's efforts to help the community to provide better services, the government in improving Land Rights refers to:**

- 1) Regulation Government Regulation No. 24 of 1997 concerning Registration land;
- 2) Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 6 of 1998 concerning Granting of Land Ownership Rights for Residential Homes;

The legal basis for changing the certificate is the Decree of the Minister of State for Agrarian Affairs / Head of BPN No. 6 of 1998 concerning granting Ownership Rights to land for residential houses. From the results of the interview with Notary / PPAT Munawarah, SH., M.Kn explained that the SHM status is undoubtedly higher than HGB because HGB must be continuously extended and, of course, requires more time and money. At the same time, SHM has no time limit and has the highest rights status. Therefore, housing developers immediately address the increased right to purchase subsidized houses with HGB status. Usually, the Developer asks us for a Notary / PPAT to assist in the administration. In terms of administrative filing, which is a requirement for all procedures related to the increase in Rights from HGB status to HM<sup>[25]</sup>.

Notary/PPAT Munawarah, SH., M.Kn also explained that the conditions that must be met to improve the HGB certificate to become HM is:<sup>[26]</sup>

1. Original Certificate
2. Resident Identity Card (KTP)
3. Family Card (KK)
4. Number Taxpayer Identification Number (NPWP),
5. PBB SPPT year last, etc.

According to the results of the interview with Mr. Efendy, he explained that the requirements given by the Notary/PPAT as a requirement for increasing rights, we, as developers, submit to the Notary/PPAT, and later, the notary will carry out the process of improving the Rights. We, as developers, usually

<sup>22</sup>Interview results with Subhan, SH., as Head of the National Land Agency Office, Central Lombok Regency, West Nusa Tenggara, at 11.45 – 12.30 WITA, Tuesday, February 18, 2025

<sup>23</sup> Cst Kansil, Dictionary of Legal Terms, Gramedia Pustaka Utama, Jakarta, 2009, p.385.

<sup>24</sup> Law Number 4 of 1992 concerning Housing and Settlements

<sup>25</sup>Interview results with Munawarah, SH., M.Kn, as Notary /PPAT Central Lombok Regency, West Nusa Tenggara, at 11.15-12.00 WITA, Monday, February 17, 2025

<sup>26</sup> Ibid,

only submit the required requirements if the buyer wants management to increase their rights to be taken care of by the developer at PT. Rinjani Salwa Lowangi provides the choice for buyers to upgrade their rights from HGB to HM through the developer or the management of the buyers themselves, and the choice depends on the choice taken by the buyer. For some time now, many buyers have asked for our help as developers to help manage the increase in their rights. According to Mr. Efendy, to make it easier for buyers, the developer should manage the rise in their rights, and for the costs, buyers only pay for the increase in their rights without having to pay more for the assistance provided by the developer because that is the obligation of the developer.

Mr. Efendy also explained that the HGB certificate, which will be required to apply for an increase in rights at the National Land Agency of Central Lombok Regency, is submitted by the buyer himself or through the developer's help. The HGB certificate, the collateral in the bank, is in the buyer's name. Therefore, when the buyer wants to upgrade the rights from HGB to HM, the buyer can take the HGB certificate to the bank after the house mortgage is paid off. The collection does not require a power of attorney because the HGB is already in the buyer's name. After all, in the purchase process, the name was changed to the developer's name for the buyer.

Suppose we talk About our constraints at PT. Rinjani Salwa Lowangi, there are no obstacles to increasing the rights because our job is only to prepare the files for the requirements required by the Notary-PPAT concerned, and the following process is for the Notary/PPAT to submit the files to the local BPN. In terms of which Notary/PPAT will assist in the administration. Usually, we from the PT determine which Notary will assist in the administration. Regarding the Agreement for subsidized houses, usually, the Agreement is carried out by signing the deed of sale and purchase before the Notary/PPAT. This process is attended by the bank, buyer and seller (developer) <sup>[27]</sup>.

In an interview with Notary/PPAT Munawarah, SH., M.Kn, he also explained that for purchases of subsidized houses, the buyer usually immediately makes an increase. The right to HGB becomes HM, so the name listed in the certificate is directly in the home buyer's name, not in the developer's name anymore. When the agreement is carried out, the deed of sale and purchase are signed simultaneously.

From the results of the interview with the Head of the National Land Agency of Central Lombok Regency, namely Subhan, SH., it was explained that: <sup>[28]</sup> This subsidized housing is intended for the middle-income community (MBR). We know that housing developers in Central Lombok are still a little different from other areas. Although Central Lombok has a large area, there are not many companies/developers who intend to make or build subsidized houses here. We from the BPN of Central Lombok Regency can only increase rights if the requirements have been met and the applicant has completed the increase in rights because these requirements can affect performance acceleration at the BPN of Central Lombok Regency.

In Central Lombok Regency, many subsidized housing

developments still have HGB status. This is because developers usually carry out the development, namely Perumnas itself. Land that can have its rights upgraded is land controlled by individuals or legal entities such as Building Use Rights or Cultivation Use Rights. For HGB, it can be upgraded to Ownership Rights with the note that it must meet the procedures set by the land office. For buildings or subsidized houses, the HGB is usually applied for in the name of the company first and the administration is carried out by the developer itself or assisted by a Notary/PPAT appointed by the developer itself. When purchased by consumers whose original certificate was in the company's name, a name change is carried out or, commonly called, a change of name to the buyer's name. After that, the process of increasing the rights from HGB to Ownership Rights is carried out.

The implementation of an application for Increased Land Rights originating from HGB is the same, regarding the regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency No. 6 of 1998, namely as follows:

1. For Building Use Rights (HGB) land with an area of not enough from 200 M2.

Application for the right to file application improvement right to office Land Central Lombok Regency with include file application as conditions that contain:

- a. Certificate, namely, a certificate the applicant owns the land in question in the form of a Building Use Rights (HGB) certificate.
- b. Proof of use land For House stay in the form of:
  - 1) Photocopy of Permit Establish Building (IMB), which explains that the building used For House stay;
  - 2) If Permission Establish Building (IMB) does not have one yet, can request letter information from the Village Head / Head Ward local which states that the building used For House stay, the name is PM 1, namely letter information from Ward For replacement Permission Establish Building (IMB);
- c. Photocopy of the Resident Identity Card (KTP), which is proof from an applicant or as identity for the applicant;
- d. Statement letter from the applicant that the acquisition of this As far as Ownership Rights are concerned, the owner will have ownership rights over land. For land Houses, the remaining amount is no more than 5 (five) fields land and all covering wide, no more than 5000 m2 and not used for a business, whatever.

2. For Building Use Rights (HGB) land with an area of 200 m2 or more.

File application containing condition condition For vast land not enough of 200 m2 also applies to land with an area of 200 m2 or more, except must state photocopy of the latest Tax Payable Notification Letter (PPT) and Land and Building Tax (PBB).

In the do improvement No may as listed in the article 45 paragraph 1 PP no. 24 of 1997: <sup>[29]</sup>

- a. Certificate / Letter of Reference about Land Rights  
Conditions are not in accordance Again with the lists

<sup>27</sup>Interview results with Mr. Efendy, as staff Administration PT. Rinjani Salwa Lowangi Central Lombok, West Nusa Tenggara, at 13.45-14.00 WITA, Thursday, February 6, 2025.

<sup>28</sup>Interview results with Subhan, SH., as Head of the National Land Agency Office, Central Lombok Regency, West Nusa Tenggara, at 11.45 – 12.30 WITA, Tuesday, February 18, 2025

<sup>29</sup>Interview results with Subhan, SH., as Head of the National Land Agency Office, Central Lombok Regency, West Nusa Tenggara, at 11.45 – 12.30 WITA, Tuesday, February 18, 2025



- available at the Land Office;
- b. Legal Acts as meant in Article 37 paragraph 1 does not prove with PPAT deed or quote treatise auction as intended in Article 41, except in condition particular as meant in Article 37 paragraph 2;
- c. Required documents For registration transition / release the rights concerned No complete;
- d. Not fulfilled other conditions specified in regulation specified legislation;
- e. The land in question is object disputes in court;
- f. Actions are proven law with PPAT deed canceled or canceled by the Court Decision which has been have strength law still;
- g. Actions law, as meant in Article 37, paragraph 1, is canceled by the parties before being registered by the Land Office.

The results of the interview with the Head of the National Land Agency of Central Lombok Regency, namely Subhan, SH., explained that:<sup>30</sup> If we talk about implementing this right enhancement, if the requirements determined by the Land Office have been met, then improving land rights can be implemented. On the contrary, if the requirements that the applicant must meet are not complete, then increasing rights cannot be carried out. As for obstacles in increasing these rights, in my opinion, there are no obstacles as long as the requirements set by the Land Office are met.

The consequences received if the land rights are not upgraded from Building Use Rights to Ownership Rights, in my opinion, certainly have legal consequences; for example, the HGB has a period when the period ends, and control returns to the last person who controls and occupies it. The result is that if the time runs out, the period must be extended again. This HGB will be problematic if the bank uses the certificate as collateral. Of course, the bank asks the person concerned or the person named in the certificate to have the right to sign the agreement even though it belongs to the buyer, for example, in purchasing a subsidized house.

The data obtained by the author on the application for increasing rights from HGB to HM at the BPN of Central Lombok Regency for the last 3 years starting from 2023, there were 293 applications for rights; in 2024, there were 466 applications for rights; in 2025, there were 220 applications for rights until June. There was an increase in applications for increasing rights from HGB to HM. if calculated, the number of applications for growing rights from 2023-2025 is 979 applications for rights.

Based on the research results, the calculation of the number of requests for increasing rights from HGB to HM from 2023-2025 shows a very high number. So, this data explains that the data on raising the status of HGB to HM is relatively high in increasing the status of rights at the Central Lombok Regency Land Agency.

According to the Head of the National Land Agency of Central Lombok Regency, namely Subhan, SH., said that the increase in land rights was carried out because ownership rights are the strongest rights among other land rights, the granting of these ownership rights is carried out generally to

Indonesian citizens who have land with building use rights status whose land is no longer burdened with mortgage rights, as regulated in Article 2 paragraph (1) of the Decree of the Minister of State for Agrarian Affairs/Head of the National Land Agency No. 5 of 1998 concerning the granting of ownership rights to land burdened with mortgages can be carried out by the holder of building use rights with the approval of mortgage rights.<sup>31</sup>

If the author of the analysis uses the Theory of Justice where justice comes from the word just, according to the Indonesian Dictionary, it is not arbitrary, impartial, or biased. It mainly means that a decision and action are based on objective norms. Justice is a relative concept; everyone is not the same; fair according to one is not necessarily fair for another; when someone asserts that he is doing justice, it must be relevant to public order where a scale of justice is recognized. The scale of justice varies significantly from place to place; each scale is defined and entirely determined by society according to the public order of that society<sup>[32]</sup>.

In his work entitled *Nichomachean Ethics*, Aristotle explains his thoughts on justice. For Aristotle, virtue, namely obedience to the law (the law of the polis at that time, written and unwritten) is justice. In other words, justice is a virtue, and this is general. Theo Huijbers explains justice according to Aristotle. In addition to general virtue, justice is a special moral virtue, which is related to human attitudes in specific fields, namely determining good relations between people and balance between two parties. The measure of this balance is numerical and proportional equality. This is because Aristotle understands justice in the sense of equality. In numerical equality, every human being is equated in one unit. For example, everyone is equal before the law. Then proportional equality is giving everyone what is their right, according to their abilities and achievements<sup>[33]</sup>.

According to John Rawls, justice is fairness (justice as fairness). John Rawls' opinion is rooted in the social contract theory of Locke and Rousseau and the deontological teachings of Immanuel Kant. Some of his views on justice are as follows:

1) Justice This is also a result of fair choice. This comes from Rawls' assumption that Men in public do not know who they are, nor do they know they are owned by the public what and from which generation (veil of ignorance). In other words, the individual in public is an entity that is not clear. Because of that, people then choose the principle of justice.

2) Justice as fairness produces procedural justice. In justice procedural pure No There is standard For determining what is called "fair" is separate from procedure That alone. Justice No seen from the result, but from the system (or process) Alone.

3) Two principles of justice.

First is the principle of equal freedom, the greatest possible (principle of greatest equal liberty). The principle This includes:

- a. Freedom For play a role as well as in life politics (rights) speak out, rights nominate self in the election);
- b. Freedom speaking (including freedom of the press);
- c. Freedom belief (including religious belief);

<sup>30</sup>Interview results with Subhan, SH., as Head of the National Land Agency Office, Central Lombok Regency, West Nusa Tenggara, at 11.45 – 12.30 WITA, Tuesday, February 18, 2025

<sup>31</sup>Interview results with Subhan, SH., as Head of the National Land Agency Office, Central Lombok Regency, West Nusa Tenggara, at 11.45 – 12.30 WITA, Tuesday, February 18, 2025

<sup>32</sup> M. Agus Santoso, *Moral Law & Justice A Study of Legal Philosophy*, Second, Kencana, Jakarta, 2014, p. 85.

<sup>33</sup> Hyronimus Rhiti, *Philosophy of Law Edition Complete (From Classic to Postmodernism)*, Fifth Edition, Atma Jaya University, Yogyakarta, 2015, p. 241.



- d. Freedom becomes a person
- e. The right to maintain ownership by personal.

Second, the principle of both consists of the difference principle and the principle of fair equality of opportunity. The essence of the first principle is that social and economic differences must be arranged to provide the most significant benefit to those who are least fortunate. The term socio-economic differences in the difference principle refers to the inequality in a person's prospects for obtaining the basic elements of welfare, income, and authority. The term least fortunate (least advantaged) refers to those with the least opportunity to achieve the prospects of welfare, income, and authority. Thus, the difference principle according to the arrangement of the basic structure of society is such that the gap in prospects for obtaining the main things of welfare, income, and authority is intended for the benefit of the least advantaged.

If the author of the analysis uses the theory of justice, then increasing rights must be fair and non-discriminatory; submitting applications either through PPAT services or independent submission must be the same. There is no discrimination; requirements and procedures must consider the economic conditions of subsidized homeowners and not complicate the application process. In this case, the BPN of Central Lombok Regency has made the maximum effort regarding rights improvement services. So, the justice provided by the state for subsidized homeowners and registration applicants has been created.

### Conclusion

Regulations regarding subsidized housing include providing subsidized housing to the community, increasing rights from HGB to HM, and other regulations that support the provision or increase of rights in purchasing subsidized housing. It has been stated in the regulation of the Decree of the Minister of State for Agrarian Affairs / Head of BPN No. 6 of 1998 concerning the granting of Ownership Rights to land for residential homes, Law Number 4 of 1992 concerning Housing and Settlements, Government Regulation Number 24 of 1997 concerning Land Registration and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Registration. PT uses these regulations as a reference. Rinjani Salwa Lowangi in helping to improve rights to purchase subsidized houses in Central Lombok Regency.

**Implementation of improvements** The rights from HGB to HM at PT. Rinjani Salwa Lowangi are running well. Regarding the purchase of subsidized houses at PT. Rinjani Salwa Lowangi as the developer, the developer assists in the process of increasing the rights to purchase subsidized houses with a Notary/PPAT appointed by the developer itself to assist in the process of increasing the rights. The increase in rights from HGB to HM can be immediately processed at the local BPN if it meets the requirements. Administration must be filled out, including Original Certificate, Population Identity Card (KTP), Family Card (KK), Taxpayer Identification Number (NPWP), Photocopy of the current year's PBB SPPT, etc. The administration of increasing rights at the Central Lombok BPN takes 5 (five) to 14 (fourteen) working days.

### References

1. Adawiyah Harahap N, *et al.* Analysis policy housing area subsidies in Indonesia. *J Islamic Econ Bus Stud.* 2024;5(6).
2. Devita Purnamasari I. Smart, easy, and wise tips for overcoming land law problems. Bandung: Kaifa; c2010.
3. Hartanto JA. Land law (characteristics of land sale and purchase for which land rights have not been registered). Surabaya: LaksBang Justitia Surabaya; 2020.
4. Hidayatulloh F, *et al.* Legal defects in the transfer of land rights. *J Legal Sci.* 2023;1(1). Sunan Ampel State University, Surabaya.
5. Ismail N. Direction of land law politics and protection of community land ownership. *J Law. Gadjah Mada University, Yogyakarta;* 1(1).
6. Kansil CST. Dictionary of legal terms. Jakarta: Gramedia Pustaka Utama; 2009.
7. Marzuki PM. Legal research. Revised ed. Bandung: PT Kharisma Putra Utama; c2015.
8. Martokusumo S. Understanding the law: an introduction. 3rd ed. Yogyakarta: Liberty Yogyakarta; c2007.
9. Nuridin, *et al.* Registration of transfer of land rights due to sale and purchase. *J Legal Sci.* 2020;8(2):6. Pancasakti University, Tegal.
10. Rheti H. Philosophy of law edition complete (from classic to postmodernism). 5th ed. Yogyakarta: Atma Jaya University; 2015.
11. Santoso MA. Law, morals & justice: a study of legal philosophy. 2nd ed. Jakarta: Kencana; 2014.
12. Santoso U. Agrarian law and land rights. Jakarta: Golden Media Prenada; 2009.
13. Sexy Legal Information - Ditama Binbangkum. Subsidized housing. Available from: <http://jdih.bpk.go.id>. Accessed 2025 Feb 15.
14. Yurijaya. Review of legal process of transfer of building use rights belonging to the ownership according to Government Regulation No. 18 of 2021 concerning management rights, land rights, apartment units, and land registration. *J Legal Sci.* 2023;5(2). Merdeka University of Pasuruan, Pasuruan.
15. Zainal A, Amiruddin. Introduction to legal research methods. Revised ed. 3rd print. Depok: Rajawali Pers; 2018.