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## Legal Implications of Changing Building Use Rights To Ownership Rights

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**Abstract:** The transfer of Building Use Rights to Ownership Rights is an important aspect in the regulation of agrarian law in Indonesia, especially after the issuance of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. In this study, the normative legal research method is used. Regulations related to the transfer of Building Use Rights to Ownership Rights are regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. Provisions regarding whether or not a Building Use Right can be transferred are stated in Article 45 paragraph (2) of the Article as the basis or basis for someone to change their Rights from Building Use Rights to Ownership Rights. The change of Building Use Rights to Ownership Rights has been clarified in Article 94 of Government Regulation Number 18 of 2021. The form of implementation of Article 48 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration and also as an effort to realize the government regulation. Determining priority rights over land in the form of Building Use Rights (HGB) that have expired depends on three factors: the subject of the rights, in terms of who submits the application for the rights, usually the subject of the rights whose name is recorded on the certificate (the former rights holder); the subject of the rights who submits the application must be able to prove that they are truly entitled to the land; and the land use is in accordance with the intent of the granting of the rights in question.

**Keyword:** Implications, Building Use Rights, Ownership Rights.

### INTRODUCTION

Land, a part of the earth's surface, holds vital value in human life, providing a space for all activities and components of national sovereignty. Population growth indirectly results in an increasing need for land. Furthermore, the increasing need for development, including housing and other land needs, means that the available land is becoming increasingly limited

(in the sense that it is not increasing). This situation can trigger increased land conflicts such as unauthorized land ownership, illegal land cultivation, and overlapping land uses. Land is a tool for realizing human well-being. (Suwitra,2026)

The transfer of building use rights is regulated in Article 35 paragraph (3) of the UUPA in conjunction with Article 34 of Government Regulation Number 40 of 1996 paragraph (1), which states that "Building use rights can be transferred and assigned to another party," with the provision that "building use rights are said to be transferred if there is a legal event, and building use rights are said to be transferred if there is a legal act. The validity of land ownership needs to be proven and often occurs when the land ownership status is still limited to building use rights; of course, the landowner wants to have a stronger land ownership status."

Meanwhile, ownership rights are different from building use rights, ownership rights are the most complete rights among other land rights. Ownership rights according to Article 20 paragraph (1) of the UUPA are hereditary, strongest, and most complete rights that a person can have over land, considering that these rights have a social function. Rights that do not have these three characteristics at the same time are not ownership rights. Hereditary, meaning that ownership rights do not only last for the life of the person who owns them, but can be continued by their heirs if the owner dies. (Adhi,2025)

The transfer of Building Use Rights (Hak Guna Bangunan) to Ownership Rights (Hak Milik) is a crucial aspect of agrarian law in Indonesia, particularly following the issuance of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. This regulation governs various matters relating to management rights, land rights, apartment units, and land registration, providing a clear legal framework for HGB holders seeking to upgrade their ownership status.

As understood in Article 21 of the Basic Agrarian Law, the subject status determines the land that may be controlled. For example, Indonesian citizens can hold land ownership rights, land use rights, building use rights, use rights, and management rights. Indonesian legal entities can hold land rights in the form of land use rights, building use rights, use rights, and management rights. Based on these rights, the holder can utilize their rights to the maximum extent possible in accordance with their intended use.

In national land law there are basic provisions regarding land tenure rights. Land tenure rights contain a series of authorities, obligations and/or prohibitions for the right holder to do anything with the land they own. "something" that may be obligatory and/or prohibited from doing is what constitutes the distinction between various land control rights regulated in the land law of the country concerned. (Ivan,2024)

The provisions regarding building use rights are stated in Article 16 paragraph (1) letter c of the Basic Agrarian Law which are specifically regulated in Articles 35 to 40 of the Basic Agrarian Law. In Article 50 paragraph (2) of the Basic Agrarian Law, further provisions regarding building use rights are explained in Government Regulation Number 40 of 1996 concerning Cultivation Rights, Building Use Rights and Land Rights and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. The definition of building use rights is the right to construct and own buildings on land that is not one's own for a maximum period of 30 years and can be extended for a maximum period of 20 years as explained in Article 35 paragraph (1) and paragraph (2) of the Basic Agrarian Law.

Acquisition of Ownership Rights as stipulated in Article 22 of the UUPA includes: first, land ownership rights that arise under customary law; second, land ownership rights that arise through government decrees; and third, land ownership rights that arise through statutory provisions. Land ownership rights that arise under customary law, namely land ownership rights that arise through land clearing (forest clearing) or through the emergence of land tongues (Aanslibing). Land ownership rights arise through government decrees, indicating that

the land ownership rights in this case originate from state land. This land ownership right arises through an application for land ownership rights by the applicant, fulfilling the procedures and requirements stipulated by the National Land Agency (BPN). Furthermore, land ownership rights arise through statutory provisions, where these land ownership rights arise through the law that created them, namely the Conversion provisions in the UUPA.

The granting of Building Use Rights has a fundamental aspect related to legal certainty regarding the granting period. With the extension of time, if the Building Use Rights expires, the owner or rights holder can submit an application to extend and renew the Building Use Rights on state land. This Building Use Right can be granted for a maximum period of 30 years, with the possibility of extension up to 20 years and renewal for a maximum period of 30 years.

Article 41 paragraph (2) states that an application for renewal of building use rights must be submitted no later than 2 (two) years after the expiration of the building use rights period.

The granting of Ownership Rights status is preceded by the deletion of the Building Use Rights or Right of Use in the land register and certificate. Subsequently, the granting of Ownership Rights status requires the creation of a land register and the issuance of an Ownership Rights certificate based on the physical data contained in the registration of the Building Use Rights or Right of Use for which the land rights have been deleted.(Alqiyah,2025)

A common problem in society arises when Building Use Rights (Hak Guna Bangunan) owners wish to transition from Hak Guna Bangunan (Hak Guna Bangunan) to Hak Milik (Ownership) by upgrading their rights to Hak Milik (Ownership). However, after submitting an application to the Land Office, they discover that the Hak Guna Bangunan (Hak Guna Bangunan) has expired. The problem is often largely due to the lack of awareness among the public/Hak Guna Bangunan (Hak Guna Bangunan) certificate holders that their land rights have a validity period and can be upgraded to Hak Milik (Ownership) before the validity period expires.

Based on the foregoing, questions arise regarding the provisions for converting Hak Guna Bangunan (Hak Guna Bangunan) to Hak Milik (Ownership) and the legal implications of the expired Hak Guna Bangunan (Hak Guna Bangunan) to Hak Milik (Ownership). The objectives of this research include understanding and analyzing in more depth the provisions for converting Hak Guna Bangunan (Hak Guna Bangunan) to Hak Milik (Ownership); and describing and conducting an in-depth analysis of the legal implications of the expired Hak Guna Bangunan (Hak Guna Bangunan) to Hak Milik (Ownership). The theories used in this paper include the Theory of Legal Protection, the Theory of Legal Certainty, and the Theory of Legal Utilization.

## **METHOD**

This type of research uses a normative legal method. The approaches used in this study are the statutory approach and the conceptual approach. The legal materials viewed from their sources include Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials. In this study, the legal material collection technique used is library research. Library research, the technique used is a study technique by collecting legal materials in the form of archives and also books on opinions, theories, legal arguments, and other things related to the research problem. The method used in processing and analyzing the legal materials used in this study is legal interpretation analysis.

## **RESULTS AND DISCUSSION**

### **Provisions For Changing Building Use Rights To Ownership Rights**

In general, the term "implication" (implied) is rarely used in social life. It's generally used in research language. Therefore, there is still little research that discusses the meaning of the word "implication." However, when you hear the term "implication," the first thing that comes to mind is an immediate effect.

"Implication" means the impact or conclusion that arises in the future, which is felt when doing something. Therefore, "legal implication" refers to the future impact of an action, viewed from a legal perspective. Furthermore, "legal implication" or "legal consequence" refers to the consequences arising from the law, concerning matters concerning an action committed by a legal subject.

Furthermore, "legal consequence" is also the result of an action taken with the aim of achieving a desired result. In this case, the effect referred to is a result regulated by law, while the action taken constitutes a legal action, whether or not it complies with applicable law. On the other hand, "legal consequence" refers to the consequences resulting from a legal event, which can be tangible.

Seeing this, it can be seen that legal consequences are events that arise for a reason, namely actions carried out by legal subjects or so-called legal actions, both actions that are in accordance with the law and actions that are against the law. (Bruggink,1999)

When a person acquires a right to land, that person is vested with power over the land, accompanied by obligations mandated by law. The acquisition of land rights can, in principle, be distinguished as follows: 1) Ordinary acquisition, which is the original acquisition, for example by clearing land (occupation); 2) Derivative acquisition, which is the acquisition due to the legal transfer of rights, for example by buying and selling, exchanging, and so on.

The provisions based on Article 4 paragraph (1) of the UUPA state that: Based on the right to control from the State as referred to in Article 2, there are various rights to the surface of the earth, called land, which can be granted to and owned by individuals, either individually or jointly with other individuals and legal entities.

The provisions in this Article authorize the use of the land in question, as well as the earth's body and water and the space above it, only as needed for interests directly related to the use of the land within the limits stipulated in this law and other higher legal regulations.

The land rights referred to in Article 4 above are defined in Article 16 paragraph (1), including Ownership Rights, Cultivation Rights, Building Rights, Usage Rights, Lease Rights, Land Clearance Rights, Forest Product Collection Rights, and other rights not included in the aforementioned rights, namely Mortgage Rights, Profit Sharing Rights, Land Use Rights, and Agricultural Land Lease Rights.

Building Use Rights, before being regulated by the National Agrarian Law, were referred to as Opstal rights, which in Western Agrarian Law and its regulations stipulated in Article 711 of the Civil Code, stand for Right to Use on Land, a property right to own buildings, structures, and plantations on another person's land. After the National Agrarian Law came into effect, the right to use on land was converted to Right to Use on Land.

Land ownership rights are recognized as rights of ownership, cultivation rights, building use rights, and use rights. Besides ownership rights, the most popular land right is the right to use on land. As the name suggests, the right to build grants the right to own a building on land that is not owned by the owner, granted for a maximum period of 30 years and can be extended for another 20 years and after being extended, it can also be renewed for another 30 years. In Article 21 of Government Regulation Number 40 of 1996 concerning the Right to Cultivate.

These provisions also apply to other parties who obtain Building Use Rights (HGB) if they do not meet these requirements. If the Building Use Rights (HGB) in question is not released or transferred within the specified period, the rights are revoked by law, thus the land becomes state land. Article 30 of Government Regulation Number 40 of 1996 explains that the holder of the building use rights is obliged to use the land and buildings in accordance with its

intended use and the requirements as stipulated in the decision and agreement for granting it, to properly maintain the land and buildings on it and to preserve the environment, and to return the land granted with the building use rights to the state.

The holder of the management rights or the holder of the ownership rights after the building use rights have been revoked must submit the certificate of the revoked building use rights to the head of the land office. (Ratnawati,2025)

If the building use rights on state land are terminated and not extended or renewed, then the former holder of the building use rights is obliged to dismantle the building and objects thereon and hand over the land to the state in an empty condition no later than one year after the termination of the building use rights.

If the building and objects therein are still needed, then the former holder of the building use rights will provide compensation in the form and amount determined by the government. And if the former holder of the building use rights is negligent in fulfilling the above obligations, then the building and objects on the former land of the building use rights will be dismantled by the government at the expense of the holder of the building use rights.

If the building use rights on land with management rights or on land with management rights or land with ownership rights are terminated as explained in Article 35 of Government Regulation Number 40 of 1996 above, then the former holder of the building use rights is obliged to hand over the land to the holder of management rights or the holder of ownership rights and fulfill the provisions agreed upon in the management agreement or the agreement granting the building use rights on land with ownership rights. (triyaningsih,2025)

Land rights are the authority given to the holder to utilize the land. Article 4 paragraph (2) of the Basic Agrarian Law states that land rights include the use of the land, as well as parts of the earth, water and space above it, as far as is necessary for purposes directly related to the land, within the limits determined by this Law and other higher legal regulations.

According to the Basic Agrarian Law, land rights are the authority granted to individuals or legal entities to own and control the surface of the earth. Article 4 paragraph (1) of the UUPA stipulates that land rights can be held individually or jointly with other individuals or legal entities, based on the State's right of control. Only the surface of the earth can be owned by an individual, taking into account the principles of spatial planning and environmental sustainability in accordance with sustainable development.

Although land rights are the most comprehensive of all rights, they still have limitations, particularly regarding the discovery of historical artifacts or other valuables beneath the earth's surface. Land use rights, such as exploitation and research, are granted by the State to Indonesian Legal Entities with the aim of improving the people's welfare and national prosperity, which includes land, the earth's surface, and outer space. (Rachman,2025)

Article 20 of Law Number 5 of 1960 explains that ownership rights are strong and full rights, passed down through generations, that a person has over land taking into account its social function, which can be transferred to another party. Hereditary indicates that ownership rights to land can continue as long as the owner is still alive, and when the owner dies, these rights can be inherited to his heirs, provided they meet the requirements as a subject of ownership rights.

Strongest indicates that ownership rights to land have greater power than other land rights, have no specific time limit, are easily defended from disturbances, and are stable. Fullest implies that ownership rights to land provide the broadest authority for the owner, can be the basis for other land rights, are independent of other land rights and provide greater freedom of land use than other land rights.

Regulations regarding land ownership rights in Indonesia have been regulated since 1960, namely through Law No. 5 of 1960 concerning Basic Agrarian Regulations, also known as the UUPA. Land rights are rights that authorize the holder to use the land and/or benefit

from it. The term "use" implies that the land rights are used for building purposes (non-agricultural), while the term "take benefit" implies that the land rights are used for purposes other than building construction. (Santosi,2012)

In implementing the provisions of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights, it is necessary to stipulate a Decree of the Minister of Agrarian Affairs/Head of the National Land Agency, building use rights on land owned by Indonesian citizens, can be changed into ownership rights with the conditions stipulated therein.(Urip,2015)

Land as a gift from God Almighty is a natural resource that is very necessary for humans to fulfill their needs, both those that are directly for their lives, such as farming or housing. The use and utilization of land must not harm the public interest, as regulated in Article 33 paragraph (3) of the 1945 Constitution which is the constitutional basis, which stipulates that: "The land, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people. (Kartini,2018)

In order to obtain land rights, the community must register them with the authorized officials so that they have strong evidence. The implementation of land registration in modern society is a State duty carried out by the Government for the benefit of the people, in order to provide legal certainty in the land sector.

Land registration is a series of activities, carried out by the state or government continuously and regularly, in the form of collecting certain information or data regarding certain lands in certain areas, processing, storing and presenting them for the benefit of the people, in order to provide legal certainty in the land sector, including the issuance of evidence and its maintenance. (Boedi,2008)

According to the explanation of Article 35 of the UUPA, because building use rights do not concern agricultural land, building use rights, in addition to being granted on land directly controlled by the state, can also be granted on land owned by an individual. Strictly speaking, building use rights can be granted on state land or land owned by another person. Article 35 paragraph 1 of the UUPA above contains important elements of building use rights, namely a) Designation of Building Use Rights, b) Object of Land for Building Use Rights and c) Period of Building Use Rights.(Sitorus, 2006)

The application for registration of the conversion of a Building Use Right to Ownership Right must be submitted to the Head of the Land Office, accompanied by: a) The Building Use Right Certificate requested to be converted to Ownership Right, b) The deed of sale or deed of acquisition for the house and the land in question, and c) A letter of approval from the Mortgage Holder, if the land is encumbered with a Mortgage Right, because by converting the Building Use Right to Ownership Right, the encumbering Mortgage Right will be extinguished.

With the end of the period of granting rights, new rights of the same kind can be granted to the holder of land rights. Legally, building use rights are not ownership rights to a piece of land; the owner only has the right to utilize buildings standing on state-owned land. Based on the state's right to control, the state can grant land to a person or legal entity with certain rights according to its use and needs. The state's right to control land is a right that authorizes the state to regulate three rights as stated in Article 2 paragraph (2) of the UUPA.

### **Legal Implications Of The Term Of Building Use Rights That Have Expired Regarding The Change To Ownership Rights**

Shifts in land policy frequently occur, with land use and control being acquired and secured by small groups. Research shows that various efforts are currently underway to revitalize land policies that can restore the balance desired and expected by the UUPA. The

proposed approach to achieving this is to implement a prismatic land law policy, which adheres to the following principles. (Bonifacius, 2023)

When a person acquires land rights, they are granted control over the land, along with obligations mandated by law. The acquisition of land rights can, in principle, be distinguished as follows: 1) Original acquisition, which is the original acquisition, for example, through land clearing (occupation); 2) Derivative acquisition, which is the acquisition resulting from a legal transfer of rights, for example, through sale and purchase, exchange, and so on.

The provisions based on Article 4 paragraph (1) of the UUPA state that: Based on the State's right of control as referred to in Article 2, various rights to the surface of the earth, called land, are determined, which can be granted to and owned by individuals, either individually or jointly with other individuals or legal entities.

The provisions in this Article authorize the use of the land in question, as well as the earth's surface, water, and the space above it, solely for purposes directly related to the use of the land within the limits stipulated in this law and other higher legal regulations.

Article 94 of Government Regulation of the Republic of Indonesia Number 18 of 2021 states that Building Use Rights (Hak Guna Bangunan) and Usufructuary Rights (Hak Pakai) held by Indonesian citizens, which are used and utilized for residential purposes, including shophouses and offices, may be granted ownership rights upon the request of the rights holder.

Therefore, in accordance with the provisions of Article 94 above, it is understood that the transfer of status for Building Use Rights (Hak Guna Bangunan) and Usufructuary Rights (Hak Pakai) can occur upon the submission of an application for the transfer of status from the original HGB to Ownership Rights. Land rights can change their status to become rights to a new, different type of land.

The definition of a change of rights is contained in Article 1 Number 11 of the Decree of the Minister of 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 a Change of Rights is a government decision confirming that a plot of land previously owned with a specific land right, upon the request of the rights holder, becomes state land and simultaneously grants the land to him/her rights to another type of land.

There are two types of changes in land status: a reduction in land rights and an increase in land rights. A reduction in land rights is a change from the highest and strongest land rights, such as HGB, to Ownership Rights. The reduction of Ownership Rights to HGB and/or Use Rights is regulated in the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 16 of 1997 concerning the Change of Ownership Rights to Building Use Rights or Use Rights and HGB to Use Rights. The change of Ownership Rights to HGB or Use Rights occurs during the auction process, which is won by a legal entity. (Jimny, 2010)

In general, Building Use Rights (HGB) are only used for residential, office, and commercial purposes. Like Ownership Rights (Hak Milik), HGB (Hak Guna Bangunan), and Use Rights (Hak Pakai), they can also be inherited or encumbered by a Mortgage (as collateral for borrowers) and can be traded and/or transferred.(Farah,2026)

The upgrade of HGB to Ownership Rights (Hak Milik) is regulated in the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency, which stipulates that HGB and Use Rights (Hak Pakai) are valid for land owned by Indonesian citizens for residential purposes, subject to various predetermined and established conditions. This upgrade of HGB to Ownership Rights is recommended by law because Ownership Rights is the highest right regulated by the Basic Agrarian Law, and its term is not limited like other land rights.

Applications for changes to ownership rights can be made if the land is already state-owned. State-owned land is divided into two types:

1) Free State Land : The public can apply directly to the state and/or government through a shorter procedure than for non-free state land. This is because free land is state land that is

directly under the supervision and control of the state itself, and no rights may be held by any party other than the state.

2) Non-free State Land : An application for conversion of non-free land to freehold land can be made by submitting an application to the state for conversion to freehold land if the holder has obtained a permit and waived any other land rights, such as HGB (Hak Pakai) or Right of Use. (Agung, 2021)

Building use rights that are not immediately extended are often a major trigger for conflict in the community, particularly in the land sector. This is due to many building use rights holders ignoring or even neglecting to extend their building use rights, resulting in the expiration of their building use rights. This results in problems or disputes in the land sector. (Salmon,2025)

Building Use Rights (Hak Guna Bangunan) can be transferred and assigned to another party. The transfer of Hak Guna Bangunan occurs through sale and purchase, exchange, equity participation, grants, and inheritance. The termination of Hak Guna Bangunan, as stipulated in Article 35 of Government Regulation Number 40 of 1996, stipulates:

1) Expiration of the term as stipulated in the granting or extension decision or in the granting agreement;

2) Cancellation by the authorized official, the Management Right holder or Ownership Right holder, before the end of the term due to: a) Failure to fulfill the rights-holding obligations and/or violation of the provisions referred to in the provisions regarding the obligations of Hak Guna Bangunan holders; or b) Failure to fulfill the conditions or obligations stipulated in the Hak Guna Bangunan agreement between the Hak Guna Bangunan holder and the Ownership Right holder or the land use agreement for the Hak Guna Bangunan holder; or c) A legally binding court decision.;

3) Voluntary relinquishment by the rights holder before the end of the term.

4) Revoked based on Law Number 20 of 1961 concerning the Revocation of Rights to Land and Objects Thereon;

5) Abandoned;

6) Land destroyed;

7) Holders of Building Use Rights who no longer meet the requirements as holders of Building Use Rights and who have not terminated their ownership of the Building Use Rights within one year, Article 38 of Government Regulation Number 40 of 1996 states that if the Building Use Rights on land with Management Rights or on land with Ownership Rights are revoked as referred to in Article 35, the former holder of the Building Use Rights is obliged to hand over the land to the holder of Management Rights or the holder of Ownership Rights and comply with the provisions agreed upon in the land use agreement with Management Rights or the agreement granting Building Use Rights to land with Ownership Rights.

As stated in the fourth paragraph of the preamble to the 1945 Constitution regarding the objectives of the Indonesian State, namely that the State through the government is responsible for protecting the entire Indonesian nation and all of Indonesia's territory, including ensuring that the natural resources in Indonesia are used for the welfare of the Indonesian Nation.(Winahyu,2009)

To guarantee the rights held, a Building Use Right (Hak Guna Bangunan) also requires a certificate, as proof of land ownership, according to Article 19 paragraph 2 letter c of the UUPA in conjunction with Article 1 number 20 of Government Regulation Number 24 of 1997 concerning Land Registration. A Building Use Right (Hak Guna Bangunan) is a land right granted for a specific period.

The granting of a specific period means that the Hak Guna Bangunan (Hak Guna Bangunan) can be revoked. Land that can be granted with a Hak Guna Bangunan (Hak Guna Bangunan) includes State Land, Land with Management Rights, and Land with Ownership

Rights. Hak Guna Bangunan (Hak Guna Bangunan) on State Land and Land with Management Rights is granted through a Decree granting rights by the Minister or a designated official, while Hak Guna Bangunan (Hak Guna Bangunan) on Land with Ownership Rights is granted by the Ownership Rights Holder through a deed drawn up by a Land Deed Making Officer.

According to the provisions of Article 94 above, it can be understood that the transfer of status for Building Use Rights and Usage Rights can occur if an application has been submitted for the transfer of status from the original HGB status to Ownership Rights. Land rights can change their status to become new land rights of a different type.

The definition of 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 for Granting and Cancellation of Decisions on Granting Rights to State Land, which states that Change of Rights is a government decision 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 the rights to other types of land.

However, the use of land with a Hak Guna Bangunan (Hak Guna Bangunan) can be revoked for certain reasons. Article 40 of the Basic Agrarian Law states that a Hak Guna Bangunan (Hak Guna Bangunan) is revoked if the term expires; is terminated before the term expires due to unfulfilled conditions; is relinquished by the rights holder before the term expires; is revoked for public interest; is abandoned; and the land is destroyed.

Regarding legal protection for building use rights holders whose period of priority rights has expired, the authorized government must render the fairest decision possible, in accordance with existing positive law, so that the public feels a sense of justice and can enjoy their rights in their own nation. Furthermore, legal entities who, according to the government, are entitled to priority rights must be given the opportunity to obtain new rights status for the objects they are entitled to. (Nadia,2024)

Only Indonesian citizens (WNI) can have ownership rights, as regulated in Article 21 of the UUPA, and with the provisions of the Law and Government Decrees, ownership rights can arise as regulated in Article 22 paragraph (2) of the UUPA. Ownership rights are included in primary land rights and are permanent, meaning that land rights in the form of ownership rights are only granted by the State and ownership rights will remain as long as the UUPA is still in effect.

## CONCLUSION

Regulations regarding the transfer of Building Use Rights to Ownership Rights are regulated in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration. The provisions regarding whether or not a Building Use Right can be transferred are stated in Article 45 paragraph (2), which states that "Building use rights can be transferred, assigned, or released to another party, and their rights can be changed." The change of Building Use Rights to Ownership Rights has been clarified in Article 94 of Government Regulation Number 18 of 2021, which states that "Building Use Rights and Usage Rights owned by Indonesian citizens, which are used and utilized for residential purposes, including shophouses and offices, can be granted ownership rights upon the request of the rights holder." The form of implementation of Article 48 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration which states that further provisions regarding the subject, land that can be granted with Building Use Rights, time period, occurrence of rights, procedures and conditions for applications for granting, extension, renewal, and registration, obligations, prohibitions, and rights, encumbrances, transfers, releases, and changes, as well as the cancellation of Building Use Rights as referred to in Articles 34 to 47 are regulated in the

Ministerial Regulation.” This regulation also serves as an effort to implement the aforementioned government regulation, which subsequently issued Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights.

Determining priority rights to land in the form of Building Use Rights (Hak Guna Bangunan) with an expiring term depends on three factors: the subject of the rights, in terms of who submits the rights application, usually the subject of the rights whose name is recorded on the certificate (the former rights holder); evidence, in which the subject of the rights application must be able to prove that they truly have the right to the land; and; land use is carried out in accordance with the intended purpose of the granting of the rights.

## REFERENCE

- I Made Suwitra, et.al, 2025, Good Faith as a Basis For Claims of Control in the Settlement of Disputes Over Traditional Land Rights in Bali, (Online), Journal of Lifestyle and SDGs Review, Vol. 5, No. 3, (<https://www.sdgreview.org/LifestyleJournal/article/view/4400>, diakses 2 Januari 2026)
- Komang Adhi Kresna Purnama, I Nyoman Alit Puspadma, Ni Gusti Ketut Sri Astiti, 2021, Pelaksanaan Perubahan Hak Guna Bangunan yang Dibebani Hak Tanggungan Menjadi Hak Milik Untuk Rumah Tinggal, (Online), Jurnal Konstruksi Hukum, Vol. 2, No. 1, (<https://ejournal.warmadewa.ac.id/index.php/jukonhum/article/view/2984>, diakses 15 Desember 2025)
- Ivan Fatkhul Amin, 2024, Mekanisme Peralihan Hak Milik Menjadi Hak Guna Bangunan Pada Proses Pembangunan Kawasan Perumahan (Studi Di Badan Pertanahan Nasional Kabupaten Malang), (Online), Jurnal Dinamika Hukum, Vol. 30, No. 2, (<https://jim.unisma.ac.id/index.php/jdh/article/view/24860>, diakses 16 Desember 2025)
- Aqliyah Hafifah Elsur, Syaddan Dintara Lubis, 2024, Peralihan Hak Guna Bangunan Menjadi Hak Milik Berdasarkan Peraturan Pemerintah No. 18 Tahun 2021 Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun, Dan Pendaftaran Tanah, (Online), Mizan: Jurnal Ilmu Hukum, Vol. 13, No. 2, (<https://ejournal.uniska-kediri.ac.id/index.php/Mizan/article/view/6572>, diakses 16 Desember 2025)
- Bonifacius Raya Napitupulu, 2023, Politik Hukum Dalam Pembentukan Undang-Undang Pokok Agraria Untuk Mewujudkan Kemakmuran Rakyat, (Online), Journal Central Publisher, Vol. 1, No. 7, (<https://centralpublisher.co.id/jurnalcentralpublisher/index.php/Publish/article/view/162>, diakses 9 Februari 2026)
- Jimmy Joses Sembiring, 2010, Panduan Mengurus Sertifikat Tanah, Visimedia, Jakarta, hal. 101.
- Farah Herliani, Ida Nurlinda, Betty Rubiati, 2018, Section Articles Peralihan Hak Milik Menjadi Hak Pakai Atas Sarusun Di Atas Tanah HGB Kepada Orang Asing Dihubungkan Dengan PP No. 103 Tahun 2015/ Kepala BPN No. 29 Tahun 2016, (Online), ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan, Vol. 2, No. 1, (<https://jurnal.fh.unpad.ac.id/index.php/acta/article/view/188>, diakses 9 Februari 2026)
- Muchammad Agung Laksono, Ronny Winarno, Istijab Istijab, 2023, Tinjauan Yuridis Proses Peralihan Hak Guna Bangunan Menjadi Hak Milik Menurut Peraturan Pemerintah Republik Indonesia Nomor 18 Tahun 2021 Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun dan Pendaftaran Tanah, (Online), Yurijaya : Jurnal Ilmiah Hukum, Vol. 5, No. 2, ([https://yurijaya.unmerpas.ac.id/index.php/fakultas\\_hukum/article/view/104](https://yurijaya.unmerpas.ac.id/index.php/fakultas_hukum/article/view/104), diakses 9 Februari 2026)

- Salmon Sihite, Gunawan Widjaja, 2025, Tinjauan Yuridis Terhadap Tata Cara Perpanjangan Hak Guna Bangunan atas Tanah Negara di Indonesia, (Online), Jurnal Tana Mana, Vol. 6, No. 3, (<https://ojs.staialfurqan.ac.id/jtm/article/view/1268>, diakses 10 Februari 2026)
- Winahyu Erwiningsih, 2009, Hak Menguasai Negara Atas Tanah, Total Media, Yogyakarta.
- Nadia Kamilah, Muhammad Sofyan Pulungan, Enny Koeswarni, 2024, Penggunaan Hak Prioritas Untuk Mendapatkan Hak Guna Bangunan Di Atas Tanah Hak Pengelolaan (Analisis Putusan Bangunan Di Atas Tanah Hak Pengelolaan (Analisis Putusan Mahkamah Agung Nomor 1994K/PDT/2020) Mahkamah Agung Nomor 1994K/PDT/2020), (Online), Indonesian Notary, Vol. 6, Issue 2, (<https://scholarhub.ui.ac.id/notary/vol6/iss2/10/>,
- Kartini Muljadi dan Gunawan Widjaja, 2018, Kebendaan pada Umumnya, Prenada Kencana Media Group, Jakarta
- Boedi Harsono, 2008, Hukum Agraria Indonesia, Sejarah Pembentukan Undang-undang Pokok Agraria, Isi dan Pelaksanaannya, Djambatan, Jakarta,
- Oloan Sitorus dan H.M. Zaki Sierrad, 2006, Hukum Agraria di Indonesia Konsep Dasar dan Implementasi, Mitra Kebijakan Tanah Indonesia, Yogyakarta,
- Ida Bagus Agung Putra Santika, 2017, Pergeseran Makna Hak Menguasai Tanah oleh Negara dalam Pemanfaatan/Penggunaan Tanah untuk Investasi, Serat Ismaya, Badung,
- Urip Santoso, 2012, Hukum Agraria Kajian Komprehensif, Kencana, Jakarta,
- Urip Santoso, 2015, Perolehan Hak Atas Tanah, Prenadamedia Group, Jakarta