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Analysis of Causal Factors and Impact of Legal Uncertainty on Building Rights from Management Rights

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Abstract

Legal uncertainty faced by holders of Building Rights (HGB) derived from Land Management Rights (HPL) in Indonesia is a pressing issue that creates difficulties in maintaining and changing the status of their rights, negatively impacting their welfare and the overall land system, which this study aims to examine and address. This study uses normative legal research methods with legislative, conceptual, comparative, and case approaches. Data were collected through literature studies and analyzed qualitatively and descriptively by considering interdisciplinary aspects. Factors that cause legal uncertainty include lack of legal protection, regulatory uncertainty, ineffective legal implementation, and reliance on third parties. This impacts the difficulty of maintaining HGB, the limitation of changing rights status, and implications for people's welfare. The findings indicate the need for legal reform, increased transparency, and strengthening institutional capacity. The implications of the findings encourage the improvement of a more fair, efficient, and legal system for HGB holders. This research is important to identify the root cause of the problem and formulate recommendations for improving the soil system. Further research suggestions include comparative empirical, interdisciplinary, and action research to implement solutions.

Keywords: Building Rights (HGB) and Management Rights (HPL), Legal Uncertainty, Land Law Reform.

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Introduction

Land management rights are a form of delegation of state authority over land ownership to certain government agencies or legal entities to manage and utilize land for the benefit of the wider community. Management rights cannot be given to individuals or private entities but only to government agencies or legal entities appointed by the government with main duties and functions related to land management (Sidiq, 2023). All of these laws and regulations, such as Article 33 Paragraph 3 of the 1945 Constitution, Law No. 5 of 1960 (UUPA), Regulation of the Minister of Agrarian Affairs No. 9 of 1965, Government Regulation No. 112 of 2000, and Government Regulation No. 18 of 2021, aim to ensure the optimal and sustainable use of natural resources, especially land, for the greatest prosperity of the people of Indonesia.

One form of land rights granted over land with Management Rights is Building Rights (HGB). HGB is a right granted to establish and own buildings on land others own for a certain period (Harahap & Syah, 2021; Kirnasari et al., 2021). The legal basis for HGB arrangements includes the UUPA, Government Regulation No. 40 of 1996, and various other implementing regulations. HGB holders have the right to construct buildings, utilize the land according to the HGB status, manage the land properly, and obtain Ownership Rights status by fulfilling the requirements determined by laws and regulations (Aji et al., 2021). On the other hand, HGB holders also have obligations to use the land productively, carry out proper land maintenance, follow legal procedures in granting and changing the status of land rights, and avoid land abandonment (Ardani & Mumtaaz, 2021).

Land management and utilization in Indonesia are regulated through various land rights, including the Right to Build (HGB) on the Land Management Rights (HPL). HGB is the right to establish and own buildings on land owned by other parties. Meanwhile, HPL is the right to control the state whose authority to implement it is partially delegated to its holders, generally government agencies, State-Owned Enterprises (SOEs), or Regional-Owned Enterprises (BUMD) (Sidiq, 2023). Although the existence of HGB on HPL has a strong legal foundation, in practice, it often causes legal problems and uncertainties for rights holders (Harahap & Syah, 2021). These issues include limited time horizons, unclear renewals or renewals of rights, and restrictions on the transfer or encumbrance of rights (Aji et al., 2021; Made Putri Laras Sapta Ananda et al., 2022).

One of the crucial problems faced by HGB holders above HPL is the potential for disputes with HPL holders. This dispute can arise due to differences of interest between the two parties, especially related to land use and utilization (Sidiq, 2023). HGB holders often feel disadvantaged because their rights are limited by the policies and regulations set by the holder (Ananda et al., 2022). In certain cases, disputes can also involve third parties, such as creditors, who have guarantees in the form of HGB above HPL (Jaelani & Mukmin, 2018). The resolution of this dispute requires a clear and effective legal mechanism, taking into account the rights and obligations of each party in accordance with applicable laws and regulations (Narendra et al., 2021).

Previous studies have examined various legal aspects related to HGB over HPL, but there is still a gap in terms of the effectiveness of legal protection for rights holders. Sidiq (2023) discusses the arrangement of HGB over HPL in the context of shopping centers while Aji et al. (2021) analyzing the transfer of HGB over HPL in general. Ouddy (2019) focused on legal protection for HGB certificate holders in the renewal and renewal of their rights while Kirnasari et al., (2021)

examining the philosophical basis of legal arrangements to provide legal certainty for HGB certificate holders. Although these studies provide valuable insights, a more comprehensive study is needed on the effectiveness of legal protection for HGB holders over HPL and reformulation measures that can be taken to strengthen their rights.

Based on this background, this study seeks to answer the main question: "How to overcome legal uncertainty and improve legal protection for holders of Building Rights derived from Land Management Rights in Indonesia?" The purpose of this study is to analyze and evaluate effective forms of legal protection for HGB holders over HPL by reviewing the existing legal protection system, identifying its weaknesses, and formulating recommendations to strengthen the rights of HGB holders (Arisandy & Purwaningsih, 2020; Xian-dong, 2005). The results of this study are expected to make a significant contribution to the reform of land laws and policies, as well as a guide for legal practitioners and land officials in dealing with problems related to HGB on HPL. More broadly, this research has the potential to encourage increased investment certainty, optimization of land use, and improvement of the legal protection system in land management in Indonesia (Khoeron, 2020; Lie & Pranata, 2021; Yasa et al., 2017).

Research Problems

How to overcome legal uncertainty and improve legal protection for Building Rights holders derived from Management Rights land in Indonesia?

Methods

This research uses normative legal research methods or literature research, which focuses on the analysis of legal documents and literature. The approaches used include a legislative approach, a conceptual approach, a comparative approach, and a case approach. The legislative approach is used to analyze laws and regulations relevant to Building Rights (HGB) and Management Rights (HPL). A conceptual approach is applied to study legal concepts related to HGB, HPL, and legal protection for rights holders. Meanwhile, a comparative approach is used to compare the implementation of HGB and HPL in various regions in Indonesia to get a more comprehensive picture. The case approach is used to analyze concrete cases related to HGB problems originating from HPL so as to understand the application of law in practice.

The research data sources consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles, Government Regulation No.

18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration, as well as other relevant laws and regulations. Secondary legal materials consist of land and agrarian law books, national and international legal journals, the results of previous legal research, and the opinions of agrarian and land law experts. Tertiary legal materials include legal dictionaries, legal encyclopedias, and credible online sources. Data collection is carried out through literature studies and documentation by collecting, studying, and analyzing legal materials relevant to the research topic.

The data analysis in this study uses a descriptive qualitative analysis method, which is carried out through several stages. First, the data is organized and categorized based on themes relevant to the research objectives. Second, data interpretation is carried out to identify patterns, trends, and relationships between concepts. Third, a comparative analysis was conducted to compare the application of HGB and HPL in various contexts. Fourth, the findings are synthesized to produce a comprehensive understanding of the problem and possible solutions. Finally, conclusions and recommendations are formulated based on the results of the analysis. This study also considers interdisciplinary aspects by integrating perspectives from the fields of economics, sociology, and public policy to provide a more holistic analysis of HGB problems originating from HPL.

To maintain the validity of the research, several steps are taken. Triangulation of data sources is applied to ensure the accuracy and consistency of the information obtained. A peer review by agrarian law experts is carried out to obtain additional input and perspective on the analysis. Critical analysis of the sources used is also carried out to ensure the relevance and credibility of the data. In addition, this study also considers the socio-economic and political context in interpreting legal data so that it can provide a more comprehensive understanding of HGB problems originating from HPL. With this rigorous methodological approach, the study aims to produce an in-depth analysis and applicable recommendations to overcome legal uncertainty for HGB holders derived from HPL.

Discussion

1. Conversion Of Management Rights Into Other Rights

Building Rights (HGB) and Use Rights are two types of land rights that can be obtained from management right land. HGB provides the right to establish and own buildings on land that is not owned by oneself for a maximum period of 30 years, while Right of Use is the right to use land that is not owned by oneself for a certain period. To obtain HGB from management right land, there are several steps

that need to be taken. First, the purchase of HGB can be made on state land, management right land, or proprietary land, as in the case of shops at the Padang City Supermarket Center (Surya, 2015). Furthermore, a management and registration process is needed that involves examining the authority to use land by the government as well as land registration and granting a Decree on the Grant of Rights (SKPH) if the land area exceeds 15 hectares (Wahyuni et al., 2023). Finally, cooperation agreements between the government and landowners must be made in writing and registered with PPAT deeds, and supporting documents must be legally valid (Mayfitrianty & Nasser, 2021).

Meanwhile, to obtain the Right to Use from land with management rights, several ways that can be taken include the use of state land by foreigners or foreign legal entities domiciled in Indonesia that benefit national development (Soraya, 2014). In addition, foreigners can also acquire land through the relinquishment of land rights followed by the provision of compensation, with the limitation of ownership of one residence (Dudás, 2022). The government also needs to socialize the public regarding the use of the Right to Use and increase supervision of land use (Li et al., 2021). It can be concluded that obtaining HGB and Right of Use from land management rights involves a structured formal process, starting from purchase, management, and registration to legally valid agreements. This process needs to be done carefully to ensure the validity of the land rights obtained.

The process of obtaining Property Rights from Land Management Rights is a complex procedure and involves various administrative stages and legal considerations. The Management Rights holder has the authority to grant Ownership Rights to part or all of the Management Rights land to other parties, especially for the purposes of public housing use and transmigration (Calista & Djaja, 2024). This process begins with the submission of an application for Property Rights to the Head of the National Land Agency of the Republic of Indonesia or an authorized official. The application must be completed with various required documents, including recommendations from the Land Agency, Decision Letters, Agreement Letters, and other documents (Widayati et al., 2018). The completeness and accuracy of these documents are essential to ensure a smooth application process. The interpretation of this stage shows that the initial process of obtaining Property Rights requires careful preparation and precision in the preparation of documents, which can be a determining factor for the success of the application.

After the application is received and approved, the Head of the National Land Agency will issue a Decree (SK) on the Grant of Ownership Rights. This decree is valid proof of the granting of Property Rights. It must be registered with

the Head of the local Regency/City Land Office (Surata & Sena, 2022). This registration process is essential because it is a formal step in recording changes in land status. After the registration process is completed, a Certificate of Property Rights (SHM) will be issued as legal proof of ownership. This SHM has strong legal binding and is proof of legal ownership of the land. The interpretation of this stage shows that the process of acquiring Title does not only stop at the approval of the application but also involves a series of administrative procedures that are important to ensure the legality and official recognition of land ownership.

Although the procedure has been established, the process of obtaining these Property Rights does not always run smoothly. Some obstacles can arise during the registration process, such as inconsistencies in requirements or convoluted processes. Factors such as land area, land status, and the existence of former rights holders can also affect the process of granting and registering Property Rights (Widayati et al., 2018). In addition, issues such as overlapping land claims, unclear land boundaries, or unresolved land disputes can be serious obstacles in this process. In some cases, a mediation process or even litigation may be necessary to resolve any disputes that arise. The interpretation of this situation illustrates that while there is a clear legal framework, implementation on the ground can face a variety of challenges that require patience, perseverance, and sometimes more complex dispute-resolution approaches.

From a legal perspective, the process of obtaining Property Rights from Land Management Rights is regulated by various Laws and Government Regulations. Law Number 20 of 2011 concerning Flats and Government Regulation of the Republic of Indonesia, Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units and Land Registration are some examples of regulations that regulate this process (Rahdania & Djaja, 2023). This legal arrangement aims to provide legal certainty and ensure land ownership rights to rights holders, as well as regulate the process of granting and registering Ownership Rights. This legal framework also establishes the limitations and requirements that must be met in the process of obtaining Property Rights from Land Management Rights. The interpretation of this aspect of the law indicates that the state has endeavoured to provide a comprehensive regulatory framework to protect the rights of all parties involved in the process of obtaining Proprietary Rights. However, the implementation and interpretation of this law in specific cases may still require further consideration and analysis.

The process of obtaining Property Rights derived from Land Management Rights is a complex procedure that requires an in-depth understanding of legal and administrative aspects. Despite the challenges in its implementation, the existing

legal framework aims to ensure fairness and legal certainty for all parties involved. It is important for applicants to prepare well, understand all requirements and procedures, and be prepared for possible obstacles that arise. For the government and related institutions, continuous efforts are needed to improve process efficiency and overcome existing obstacles. Thus, while this process may be complicated and time-consuming, it is an important step in ensuring legal certainty over land ownership in Indonesia. The final interpretation suggests that despite the challenges, the existing system seeks to balance individual interests with public interests in land management while still providing an avenue for individuals to acquire land titles.

2. Lack of Legal Protection for HGB Holders Derived from Processing Rights

Holders of Building Rights (HGB) derived from Land Cultivation Rights often face serious problems related to the lack of legal protection. This situation creates uncertainty and has the potential to harm HGB holders in various aspects. HGB grants the right to erect and own buildings on land that is not its own with a maximum time limit of 30 years, while Land Cultivation Rights allow the use of land with certain time limits (Sulistyo Y.S. & Widhi H; Tanjung, 2021). Although the HGB holder has the right to erect a building, this right can be decided at any time by the original owner of the Land Cultivation Right. This uncertainty raises an urgent need for stronger legal protection for HGB holders derived from Land Cultivation Rights. Without adequate legal protection, HGB holders risk losing their investment and rights to the property they have built.

The lack of legal protection for HGB holders derived from Land Cultivation Rights is reflected in several critical aspects. First, they do not have the automatic right to extend their rights, which can result in losing their rights without adequate notice. Second, HGB holders often face disputes with the original Land Cultivation Rights owners, which can lead to the loss of their rights without the opportunity to take appropriate legal action (Ardiyanto, Suhariningsih, 2022). This situation creates an unstable environment for investment and development, as HGB holders are unable to plan for the long term with confidence. In addition, this legal uncertainty can hinder economic development and reduce investor confidence in Indonesia's land system. This issue, in turn, can have a negative impact on economic growth and the country's infrastructure development.

In an effort to overcome this problem, some HGB holders derived from Land Cultivation Rights have turned to Build Operate Transfer (BOT) agreements as an alternative to extend their rights. However, this approach also has its limitations

and risks. BOT agreements can give rise to new disputes when their validity expires, especially if they are not supported by a clear and effective legal framework (Eventia, 2017). HGB holders should be careful when drafting their BOT agreements, ensuring that all aspects of the agreement are protected by applicable law. While BOT agreements can provide a temporary solution, they do not solve the underlying problem of lack of legal protection for HGB holders derived from Land Cultivation Rights. Therefore, a more comprehensive approach is needed to address this problem thoroughly.

To effectively address these issues, a multifaceted approach involving legal reform and effective implementation is needed. The government must make clear and comprehensive regulations regarding HGB derived from Land Processing Rights, providing legal certainty for all parties involved. These regulations should include clear procedures for the extension of rights, dispute resolution, and investment protection. In addition, the government needs to ensure that existing regulations are implemented consistently and effectively, creating a fair and predictable environment for all stakeholders (Erniyazov, 2023). Increasing transparency in the land administration process and strengthening the judicial system to handle land disputes are also important steps in improving legal protection for HGB holders. Effective implementation of the law will not only protect HGB holders but will also increase investor confidence and promote sustainable economic development.

HGB holders, Land Cultivation Rights owners, and legal professionals should be provided with a clear understanding of their rights and obligations in the context of the Land Cultivation Rights HGB. Training programs and workshops can help increase legal awareness and facilitate more effective dispute resolution. In addition, collaboration between governments, academics, and legal practitioners in developing innovative solutions to these problems is essential. By implementing this holistic approach, Indonesia can move towards a fairer and more efficient land system, which provides adequate legal protection for HGB holders derived from Land Cultivation Rights while maintaining a balance of interests for all parties involved. These efforts will contribute to the stability and growth of the property and construction sectors, which in turn will support the overall development of the national economy.

Legal uncertainty for holders of Building Rights (HGB) derived from Management Rights is a serious problem in Indonesia's land system. One of the main factors that causes this uncertainty is the lack of adequate legal protections. HGB holders often do not have the right to automatically renew their rights, which

can cause them to lose their rights without sufficient notice (Tanjung, 2021). This situation is exacerbated by the fact that HGB holders often face disputes with the party who owns the original Land Cultivation Rights. This uncertainty not only harms HGB holders financially but also hinders long-term investment and property development. In addition, the lack of an effective and efficient dispute resolution mechanism between HGB holders and Management Rights holders further exacerbates the situation. This problem creates an environment that is not conducive to economic development and property investment.

The second factor contributing to legal uncertainty is the lack of clarity in the agreements and regulations governing the relationship between the HGB and the Management Rights. Build Operate Transfer (BOT) agreements that are often used by HGB holders to extend their rights can cause disputes in the future, especially if they are not protected by clear and compelling laws (Dolla et al., 2022). Ambiguity in this agreement may lead to different interpretations and potential conflicts between the parties involved. In addition, the regulations governing HGB and Management Rights are often not comprehensive enough or overly ambiguous, creating legal loopholes that can be exploited by certain parties. As a result, HGB holders often feel they do not have enough legal certainty to protect their investments. This situation can also result in distrust of the land law system as a whole.

Ineffective legal implementation is the third factor that causes legal uncertainty for HGB holders. Although there are regulations governing HGB and Management Rights, their implementation is often inconsistent and depends on the interpretation of the authorities (Effendi, 2023). This issue can lead to different treatments for HGB holders in different regions or even in similar cases. This inconsistency not only creates confusion for HGB holders but also reduces trust in the land law system. In addition, the lack of transparency in the land administration process and decision-making by the competent authorities further exacerbates the situation. As a result, HGB holders often feel they do not have enough legal certainty to protect their investments and face unnecessary risks.

The limitation of the HGB term is also a significant factor contributing to legal uncertainty (Roestamy, 2016). HGB has a maximum term of 30 years, after which their rights will end. HGB holders must ensure that they can extend their rights before the term expires to avoid losing their rights. However, this extension process is often unclear and full of uncertainty. This uncertainty can hinder long-term investment and property development. HGB holders may be hesitant to make a significant investment if they are not confident they can maintain their rights

after the HGB term has expired. In addition, these timeframe limitations can also lead to speculation and manipulation of land prices, which in turn can affect the overall stability of the property market.

The last factor to consider is the dependence of HGB holders on third parties. HGB holders derived from Land Cultivation Rights often depend on third parties to extend their rights (Calista & Djaja, 2024). If the third party does not fulfill its obligations, then HGB holders may experience uncertainty. This situation can create an imbalance of power between HGB holders and third parties, which can be exploited for one-sided gains. This dependence can also cause delays in the rights renewal process, which can result in financial losses for HGB holders. In addition, dependence on third parties can make HGB holders vulnerable to changes in policies or economic conditions that affect those third parties.

To address these factors that cause legal uncertainty, a comprehensive approach involving legal reform, improved implementation, and better education is needed. The government needs to revise and clarify the regulations governing the relationship between HGB and Management Rights, providing stronger legal protection for HGB holders (Abdul Zaini et al., 2023). In addition, there needs to be an effort to improve consistency in the implementation and enforcement of land laws throughout Indonesia. Increased transparency in the land administration and decision-making process is also crucial to building trust in the land law system. Finally, intensive education and socialization programs are needed to ensure that all parties involved understand their rights and obligations satisfactorily. By implementing these measures, Indonesia can move towards a fairer, more efficient land system and provide better legal certainty for HGB holders derived from Management Rights.

3. Negative Impact of Legal Uncertainty for HGB Holders Derived from Management Rights.

Legal uncertainty for Building Rights (HGB) holders derived from Management Rights has a significant negative impact on various aspects of the lives of the rights holders. One of the main impacts is uncertainty in the maintenance of the HGB. As illustrated in the case in Medan Petisah District, HGB owners face immense difficulties in extending their rights because they have to get recommendations from the government, which is often reluctant to grant an extension of HGB (Zamil, 2017). This situation creates vulnerability for HGB holders, who may have invested significantly in their property. This uncertainty not only affects the long-term plans of HGB holders but can also hinder the

development and maintenance of the property. Furthermore, this kind of uncertainty can create an atmosphere of distrust between society and government, which in turn can affect social and economic stability more broadly.

Another negative impact of this legal uncertainty is the limitations faced by HGB holders in changing the status of their rights. Puspitoningrum, (2019) explained that to change the status of HGB to Ownership, the holder must meet certain requirements, such as the expiration period of the HGB and a land area of no more than 600 m². This requirement can be a significant obstacle for many HGB holders, especially those who own larger properties or whose HGB is not close to expiration. These limitations not only limit the flexibility of HGB holders in managing their assets but can also hinder long-term investment and property development. Additionally, the inability to change the status of the title can affect the value of the property and reduce the economic potential of the asset. This situation can create an economic gap between landowners with different rights statuses, which in turn can trigger social tensions.

Unexpected and often unclear regulatory changes are also a significant source of legal uncertainty for HGB holders. Harris et al. (2021) noted that changes in ownership recommendations from the Medan City Government have created legal uncertainty for the community. Changes in these kinds of regulations can occur without adequate notice or consultation, leaving HGB holders in a vulnerable position. They may have made decisions or investments based on existing regulations, only to find that the regulations have changed, potentially to the detriment of their interests. This uncertainty can hinder long-term planning and investment, as HGB holders may be hesitant to make significant commitments if they are not confident that their rights will be protected in the future. Furthermore, frequent and unexpected regulatory changes can reduce trust in the legal system and the government as a whole.

Reliance on third parties to extend or change the status of HGBs is also a significant source of uncertainty. Yakob Udi (2018) explained that HGB holders often have to rely on parties such as the Government or Perum Perumnas for matters related to their rights. This dependency creates a situation where the fate of HGB holders is greatly influenced by the decisions of other parties, who may have different interests or priorities. This decision-making process by third parties is often non-transparent and can be volatile, creating additional uncertainty for HGB holders. This situation can lead to delays in the administrative process, increase costs, and potentially even open up opportunities for corrupt practices. Furthermore, this dependence on third parties can limit the autonomy of HGB

holders in managing their property, which in turn can affect the efficiency and productivity of land use.

The cumulative impact of this legal uncertainty has severe implications for the well-being of society as a whole. Abdul Zaini et al. (2023) emphasized that uncertainty in extending the HGB can make people unsure of their future, thus affecting investment and development. This uncertainty can create an atmosphere of insecurity that affects various aspects of life, from personal decisions, such as building or renovating a home, to business decisions, such as establishing or expanding a business. On a broader scale, legal uncertainty can hinder regional economic development, reduce investment, and even affect community social cohesion. Furthermore, this situation can create distrust of government institutions and the legal system, which in turn can threaten long-term social and political stability.

To address these negative impacts, a comprehensive approach involving legal reform, increased transparency, and strengthening the capacity of relevant institutions is needed. The government needs to review and revise existing regulations to provide greater legal certainty for HGB holders. The process of renewing and changing the status of HGB should be made more transparent and efficient by reducing dependence on third parties. In addition, better education and socialization about the rights and obligations of HGB holders are also needed to empower the community. With these measures, it is hoped that the negative impact of legal uncertainty can be reduced, creating a more conducive environment for the development and welfare of the community.

Legal uncertainty for holders of Building Rights (HGB) derived from Processing Rights is a complex problem that requires a comprehensive solution. One of the solutions that can be applied is to return the assets to the owner of the Cultivation Rights when the land use agreement expires. Suhail et al. (2023) illustrated the application of this solution in the case of the Daya Regional Terminal in Makassar, where the Land Cultivation Rights holder and the HGB holder have agreed to terminate the land use agreement so that the assets are returned to the Land Cultivation Rights owner. This approach can provide clarity on the status of the asset after the expiration of the agreement, reducing the potential for future disputes. However, the implementation of this solution requires good cooperation and agreement between HGB holders and Management Rights owners. In addition, there needs to be a clear mechanism to assess and determine fair compensation for HGB holders for the investments they have made during the HGB period.

Legal protection through negotiation, mediation, or the judiciary is the second solution that can be taken. Made Putri Laras Sapta Ananda et al. (2022) suggest that HGB holders can negotiate with the owners of the Processing Rights to extend their rights or through a mediation process to reach a fair agreement. This approach provides flexibility for both parties to find a mutually beneficial solution. Negotiation and mediation can help avoid lengthy and costly legal proceedings, as well as allow the parties to maintain a good relationship. However, the success of this approach depends heavily on the good faith and willingness of both parties to compromise. In cases where negotiation or mediation fails, the judiciary may be the last resort to resolve the dispute, although this process may be more time-consuming and costly.

The provision of HGB, which stands for the Right to Cultivate, is the third solution that can provide legal certainty. Marthen B.Salinding (2018) gave an example of the application of this solution in Tarakan City, where the status of the Mining Working Area (WKP) land as a Land Cultivation Right has been given legal certainty by being given HGB. This approach can provide clarity on the legal status of HGB holders and allow them to make more optimal use of the land. However, the implementation of this solution requires good coordination between various government agencies and requires policy changes that may take a long time and process. In addition, there needs to be a clear mechanism to determine the criteria and procedures for granting HGB over Processing Rights to avoid conflicts of interest and ensure transparency of the process.

The authority of the Processing Rights holder can also be a solution to overcoming legal uncertainty. Calista & Djaja (2024) explained that the holder of the Right to Cultivate has the authority to use the land for the purpose of carrying out his duties or business, including collaborating with third parties. For example, the Jombang Regency Government, as the holder of the Number 1 Cultivation Right of Jombang Village, has collaborated with a third party to issue a land use agreement that gave birth to HGB. This approach allows for flexibility in land use and can provide legal certainty for HGB holders through clear agreements. However, there needs to be strict oversight to ensure that this authority is not abused and remains in line with the public interest. In addition, there needs to be standardization in cooperation agreements to ensure fairness and consistency in the provision of HGB.

Finally, case analysis through legal research can make a significant contribution to finding effective solutions. Roestamy (2016) emphasized the importance of legal research in providing a further understanding of the legal implications of various property issues, including legal uncertainty for HGB

holders. This approach can help identify gaps in the existing legal system and formulate recommendations for policy and practice improvement. However, the effectiveness of these solutions depends on the quality of the research conducted and the willingness of policymakers to consider and implement the resulting recommendations. In addition, there needs to be an effective mechanism for transferring knowledge from research results into legal practice and public policy.

Conclusion

Legal uncertainty faced by holders of Building Rights (HGB) derived from Management Rights (HPL) land in Indonesia is caused by various factors, such as lack of adequate legal protection, ambiguity in agreements and regulations, ineffective implementation of the law, limited time frame of HGB, and dependence of HGB holders on third parties. The findings of this study reveal significant adverse impacts of this legal uncertainty, including difficulties in maintaining HGB, limitations in changing the status of rights, unexpected changes in regulations, and serious implications for the welfare of the community as a whole. The importance of this research lies in its contribution to identifying the root of the problem and formulating concrete recommendations to improve the land system in Indonesia.

Although this research has made a significant contribution, there is still room for further research. Some of the proposed solutions include the return of assets to the owner of the HPL when the land use agreement expires, legal protection through negotiations, mediation, or judicial bodies, the granting of HGB that stands on top of the HPL, and the use of the authority of the HPL holder in cooperation with third parties. These solutions are expected to address legal uncertainty by providing clarity on asset status, flexibility in dispute resolution, legal certainty, and optimal land utilization. However, this research has limitations in terms of the scope of comparative studies, empirical research, interdisciplinary perspectives, and the implementation and evaluation of proposed solutions. Suggestions for further research include: (1) Comparative studies with other countries with similar land systems; (2) Empirical research involving surveys and interviews with HGB holders, HPL owners, and other stakeholders; (3) Interdisciplinary studies that integrate legal, economic, and social perspectives; and (4) Action research involving collaboration between academics, legal practitioners, and policymakers to implement and evaluate the effectiveness of proposed solutions.

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