

Foreign Ownership of Indonesian Property

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Indonesian Land Title

Indonesia has undoubtedly much potential for economic and tourism developments, attracting expats and global investors to invest and live in Indonesia. The government of Indonesia (“GOI”)’s target is to become the world’s 7th (seventh) largest economy by 2030.

To improve foreign direct investment to Indonesia, the GOI has committed to increase its supporting facilities such as easy access and affordable piece of land to establish their factory and living area for their foreign workers. Likewise, many foreign tourists choose Indonesia as their regular holiday destination which affects the increase in demand for property, particularly in Bali.

The Indonesian Basic Agrarian Law stipulates some land titles i.e. freehold (*Hak Milik*), right-to-cultivate (*Hak Guna Usaha*), right-to-build (*Hak Guna Bangunan*), right-to-use (*Hak Pakai*) and leasehold (*Hak Sewa*).

Freehold is the greatest form of land ownership in Indonesia, in which the holder is entitled to obtain the benefits thereof with unlimited term of ownership. This type of land title is restricted for only Indonesia citizens, while right-to-cultivate and right-to-build can be held by either Indonesian or Indonesian legal entity.

The most common titles for expats are right-to-use and leasehold. Leasehold shall subject to a land-lease agreement which clearly determine the specific term of lease and method of payment. Otherwise, right-to-use is dedicated for land directly controlled by the State or land owned by another individual where the agreement is not a land-lease agreement or land-exploitation agreement.

Right-To-Use

The GOI has confirmed the rules of land ownership by expats through the Government Regulation Number 103 of 2015 regarding the Ownership of Residential Property by Foreign Citizens Domiciled in Indonesia (“GR 103/2015”).

The GR 103/2015 allows expats to own a landed house or an apartment unit under the right-to-use only. In case of the expats pass away, property can be bequeathed to its heir or other expats having a valid stay permit according to Indonesian immigration laws.

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Unlike the previous law which allows right-to-use for up to 50 (fifty) years, the GR 103/2015 sets term of ownership for up to 30 (thirty) years and an option to extend for 20 (twenty) years. At maturity date, the right can be renewed for another 30 (thirty) years. Also worth noting is the extension and the renewal require a valid stay permit of the owner of such right-to-use.

The expats or their heirs are required to relinquish or hand over its right over the property to other party if they are no longer living in Indonesia. Otherwise, the GOI has its rights to auction any property with right-to-use on land controlled by the State and its auction results after expenses, taxes and other costs shall be distributed to the previous owner. Meanwhile, the right-to-use on land under right of ownership will be returned to the concerned owner of land.

A follow-up regulation were enacted through Minister of Agrarian Affairs and Spatial Layout/Head of National Land Agency Regulation Number 13 of 2016 on Procedures for Granting Relinquishing and Transferring Ownership of Residential Property for Foreign Citizens Domiciled in Indonesia (“**Regulation 13/2016**”).

The Regulation 13/2016 provides minimum thresholds based on the property type and locations as provided in the attachment of the Regulation 13/2016 as follow:

Locations	Type of Property	
	House (≥) in IDR	Apartment (≥) in IDR
DKI Jakarta	10 Billion	5 Billion
Banten	5 Billion	1 Billion
Jawa Barat	5 Billion	1 Billion
Jawa Tengah	3 Billion	1 Billion
Yogyakarta	3 Billion	1 Billion
Jawa Timur	5 Billion	1.5 Billion
Bali	3 Billion	2 Billion
Nusa Tenggara Barat	2 Billion	1 Billion
Sumatera Utara	2 Billion	1 Billion
Kalimantan Timur	2 Billion	1 Billion
Sulawesi Selatan	2 Billion	1 Billion
Other Province	1 Billion	750 Million

Furthermore, the Regulation 13/2016 also sets the ownership of residential property by expats can be a valid loan guarantee for a mortgage (*hak tanggungan*) debt burden. If it is under the right-to-use on land under right of ownership, assignment of rights should firstly be approved by the owner of such right of ownership.

Foreign citizens are allowed to own land/property in Indonesia under the Right-To-Use (*Hak Pakai*) for maximum of 80 (eighty) years, instead of Right of Ownership (*Hak Milik*).