



Ownership Rights to Buildings that Stand on Water

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Abstract - Floating houses, or "Rumah Terapung," are unique residential concepts built on water rather than on land. This tradition, deeply rooted in Indonesian coastal communities, involves constructing homes on lakes, rivers, marshes, and coastal areas, reflecting a lifestyle passed down through generations. Indonesian law, particularly Law No. 28 of 2002 concerning Buildings, permits the construction of structures above or below land, water, or public infrastructure, which must be registered with the government to ensure proper use and development. However, many floating houses remain unregistered due to unclear land rights. The National Land Agency (BPN) oversees the registration of land rights, including maritime cadastres, which are essential for managing coastal and marine areas. Despite Indonesia's abundant coastal resources, the country lacks a dedicated maritime cadastre organization, necessitating the development of appropriate measurement, mapping, and rights registration processes to provide legal certainty for these water-based structures. The guarantee of immovable objects like floating houses involves Mortgage Rights under Law No. 4 of 1996. The principle of horizontal separation in Indonesian land law, which distinguishes ownership of land and buildings, complicates the registration and guarantee process. Government authority encompasses various laws and regulations, including Law No. 11 of 2020 and Law No. 26 of 2007, requiring coordination between central and regional governments in planning, licensing, environmental assessment (AMDAL), supervision, law enforcement, and conservation. Proper coordination ensures sustainable and environmentally friendly development, preserving Indonesia's coastal and marine resources. Clear regulations and processes are essential to provide legal certainty and support the sustainable development of floating housing settlements, ensuring that these unique communities continue to thrive.

Keywords: Coastal; Land Registration; National Land Agency; Housing area

I. INTRODUCTION

Indonesia, an archipelagic nation with vast coastal areas, has a significant portion of its population living in close proximity to water bodies such as lakes, rivers, and the sea. This geographical and socio-economic context has led to the development of floating homes, which have been an integral part of Indonesian coastal communities for generations. These floating structures are not merely sheltering but are also a reflection of the unique lifestyle and cultural heritage of these communities. As one of the world's biggest archipelagos, Indonesia has approximately 18,110 islands and a coastline of 108,000 km. According to the 1982 Convention on the Law of the Sea (UNCLOS), Indonesia has jurisdiction over 3.2 million km² of territorial sea, including 2.9 million km² of archipelagic seas and 0.3 million km² of territorial sea (Cahyawati, 2023). The sea is linked saltwater bodies that cover 70% of the earth's surface. This statistic excludes Salt Lake, which is not a sea by definition. Additionally, Indonesia has exclusive rights to use marine resources and associated interests in ZEE seas for 2.7 km² (Conscience & Indri Fogar Susilowati, 2020). Ocean riches is plentiful and can be

harnessed for Indonesian prosperity (Wantu et al., 2024). The benefits of water regions make Indonesians use them for fishing, mining, mariculture, and natural tourism. Utilization of these water resources requires quick and pleasant access to support work, therefore individuals in the water areas need buildings for refuge (Mamu et al., 2024).

A dwelling is one of the most fundamental human requirements, along with clothes, food, health, and education (Rahman et al., 2024). Every family should have the opportunity to possess a well-maintained home. A house serves several purposes: as a place to live, as a refuge from the elements, and as a nursery for new life. Floating homes are constructed by people in water regions as a means of housing, since housing is a fundamental human need, and as a method of support or access that facilitates travel to and from work. A "floating house" is a home design idea that makes use of materials that float on water (Abdussamad et al., 2024). The idea of floating buildings, also known as "Floating Structures," is often used to replace land during building projects. It also offers an alternative to regional pre-arrangement and reclamation due to the structure's ability to float on water (Putra & Triwilaswandio, 2017).

The local knowledge of the inhabitants in coastal regions is the practice of creating floating dwellings, which has been preserved from the time of their ancestors and handed down through generations. The places where people who live near the shore make their homes and engage in water-based activities like fishing, boating, and other related pursuits. Floating homes have evolved into a whole new kind of waterfront community, able to float on lakes, rivers, marshes, or even the ocean. Law Number 1 of 2011 concerning Housing and Settlement Areas (hereinafter referred to as the Housing and Settlements Law) has accounted for regulations pertaining to settlements and housing, but this law does not address structures on water, like floating houses, and only applies to buildings constructed on land (the mainland). Numerous coastal waters in Indonesia are home to floating house settlements. Some examples of these include Torosiaje Village, Gorontalo, Ayapo Village, Jayapura, Bajo Floating Village, Sulawesi, Salotengnga Village, South Sulawesi, Tablasupa Village, Papua, and numerous other water areas across the country. People in coastal water locations often construct the floating homes themselves, since the majority of their population works in water-related industries.

Regulations regarding settlements in coastal areas are contained in the Regulation of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia Number 23/Permen-KP/2016 concerning Management Planning for Coastal Areas and Small Islands. A floating house is a concept for a residence or residence using floating structural media (Imran et al., 2024). The ability of a floating structure to float above ground makes it a viable option to land for building development and to regional pre-arrangement beyond reclamation. Living in floating homes in coastal places is a cultural practice that has been handed down from one generation to another, serving as a kind of local knowledge (Putra & Triwilaswandio, 2017). Floating homes are a permanent way of life for people living in coastal locations. They construct houses on water, fish for a livelihood, and engage in other water-based activities. Floating homes have evolved into a whole new kind of waterfront community, able to float on lakes, rivers, marshes, or even the ocean.

A structure may be erected on or transported on land, sea, or public infrastructure and utilities according to Law 28 of 2002 regarding Buildings. So that buildings may be used and developed in an organized manner, the government must gather data about them. When it comes to matters of territorial boundaries, land rights, and the legal aspects of land parcels, the National Land Agency is in charge of conducting registrations of rights—also known as the cadastre concept—to guarantee legal certainty in Indonesia. This entails creating an information system to assist with the management of individual land parcels or parcels within an area. The term "marine cadastre" describes the use of the cadastre idea in watery environments. Despite its wealth of coastal and marine resources, Indonesia lacks a dedicated entity to manage maritime cadastre. This idea of a marine cadastre is put into action by the National Land Agency via rules that are still focused on the land sector. It calls for a procedure of measuring and mapping in addition to the registration of suitable rights for coastal and marine regions, as the current implementation of water space registration is seen to fall short of the community's demands. Implementing the marine cadastre concept in Indonesia is

anticipated to be facilitated by the development of measurement and mapping procedures for objects in water space. With a solid spatial data infrastructure and guaranteed rights to use water space, the management and utilization of coastal and marine areas can progress swiftly.

Buildings located on water cannot be registered directly with government offices; other processes are required. According to Government Regulation Number 18 of 2021, which deals with Management Rights, Land Rights, Flats, and Land Registration, it is forbidden for anyone who have usage rights to enclose or close off yards or other pieces of land from public areas, roads, or rivers. Having said that, no data indicates that waterfront property registration is forbidden or not permitted (Muhtar et al., 2024). The very idea of a home floating on water is valuable and might give rise to property rights as an immovable item. Every person 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. Therefore, it is crucial to discuss the legal provisions for floating houses on water to ensure this right is upheld. This guarantee is found in the 1945 Constitution of the Unitary State of the Republic of Indonesia (Waskito, 2019). With this right, floating house settlements on water must receive clear regulations to provide a means of developing basic needs for a decent and comfortable place to live. Regulations regarding the existence of floating house settlements on water in water areas, one of which is coastal waters, should be accommodated with the Housing Law, because the existence of communities living in floating house settlements existed long before the Housing Law was made. Settlement (Setyobudihono et al., 2024)

An integral aspect of controlling and overseeing the development of building structures constructed above water's surface is the registration system for such structures. Building registration on water in this technologically advanced age calls for a meticulous and effective strategy (Gobel et al., 2024). This article's goal is to talk about the ramifications of guaranteeing structures that are on water and the mechanism for registering such buildings. We think that by thoroughly researching the water building registration system, we can help shape more effective regulations going forward. Despite their cultural and economic significance, floating homes face significant legal challenges, particularly concerning ownership rights and registration. The existing legal framework, including the Basic Agrarian Law and other related regulations, does not adequately address the complexities involved in registering and securing ownership rights for structures that stand on water. This has resulted in many floating homes remaining unregistered, leading to ambiguous legal statuses and potential conflicts.

This research aims to explore the specific legal issues related to the ownership rights and registration of floating structures in Indonesia. It will examine the gaps in the current legal framework, the role of the National Land Agency (BPN) in managing maritime cadastres, and the challenges posed by the horizontal division of land and building ownership in Indonesian land law. The goal is to provide a clearer understanding of the legal mechanisms needed to ensure the protection and sustainability of floating homes, which are vital to Indonesia's coastal communities. Following the preceding explanation, the author of this paper plans to write an essay named "Ownership Rights to Buildings that Stand on Water" and formulate the following problem: (1) What is the registration process for structures that rest on water? and (2) What would happen if an insurance company paid for a structure that was floating on water?

II. METHOD

This study employs a judicial-normative or doctrinal research approach, which focuses on the examination of statutes, rules, court judgments, and other forms of legal literature (Mahmud Marzuki, 2011). This method is particularly well-suited to addressing the research question concerning ownership rights to buildings on water, as it allows for a thorough exploration of the relevant legal frameworks, principles, and precedents that govern this complex issue. By systematically analyzing statutes and regulations, this research aims to uncover the legal foundations that underlie ownership rights and the registration of floating structures. The method involves identifying and interpreting relevant legal concepts and standards, which are critical for understanding how existing laws apply to floating homes in

Indonesia's unique geographical and socio-economic context. Furthermore, by reviewing court judgments, this study will examine how the judiciary has interpreted and applied these laws in real-world cases, providing insight into the practical challenges and legal ambiguities that arise in the registration of floating structures.

To achieve a comprehensive understanding of the issue, this study will review a range of legal sources, including:

1. Law No. 5 of 1960 on Basic Agrarian Principles :This fundamental law defines land rights and will be analyzed to understand its implications for structures built on water.
2. Law No. 4 of 1996 on Mortgage Rights : This statute governs the guarantee of immovable properties, including floating homes, and its provisions will be closely examined.
3. Law No. 28 of 2002 on Buildings: This law outlines the requirements for the construction and registration of buildings, including those on water.
4. Books and Journals:Scholarly works that discuss the legal challenges of maritime cadastres, property rights, and the application of horizontal separation in Indonesian land law will provide essential theoretical insights.
5. Government Regulations: Government Regulation No. 18 of 2021 and Government Regulation No. 19 of 2021, which address the registration of structures on water, will be critically analyzed.

By systematically reviewing these sources, the research will build a detailed understanding of the current legal landscape, identify gaps and inconsistencies in the law, and propose recommendations for enhancing legal certainty and protection for ownership rights to buildings on water. The use of systematic and grammatical interpretations will ensure that the analysis is both rigorous and comprehensive, providing a solid foundation for the study's conclusions.

III. RESULT AND DISCUSSION

1. Registration of Buildings Standing on Water.

Providing adequate housing and environmental health for all Indonesians is a goal of national development. In addition to providing a safe place to live, raise a family, and display pride in one's possessions, a home also serves as an investment for its owner. One aspect of Indonesia's present housing crisis is the prevalence of substandard living circumstances, which make it difficult, if not impossible, for families to establish a comfortable home. Housing, a fundamental human necessity, is an expression of the human condition in two dimensions: the person and the community in relation to the natural world (Blaang, 1986). In this context, it serves as both a dwelling and a source of the resources essential to human well-being and progress. Urban areas, rural areas, and coastal areas all suffer from housing and settlement situations that fail to satisfy technical and health standards in Indonesia. This is a result of the majority of Indonesians having poor levels of education, knowledge, and money. This means that there is still a significant knowledge gap when it comes to how the home and its surroundings work.

Because the Housing and Settlements Law does not apply to structures that are placed above water, its regulations pertaining to housing and settlements only place limitations on provisions for buildings situated on land. Despite its prevalence in watery environments, many structures are constructed on or near the water, creating a floating home vibe. These gondolas are common sights in coastal regions, wetlands, rivers, and lakes. From the time of our forebears, people have used floating houses, some of which were erected permanently and others that were relocated. Floating home communities have evolved from the humble abodes that float on coastal seas. In Indonesia, floating home communities are rather widespread. Given Indonesia's status as a coastal nation, a large portion of the population looks to the ocean as a source of income (Putri et al., 2023). Consequently, those who go out into the huge ocean in search of a livelihood sometimes construct their homes out of wood right on the coast. Along with a great many fisherman, the line of succession began with a single

patriarch and lasted through several generations, culminating in the establishment of a fishing hamlet.

Both traditional land law and the more modern national land law of Indonesia, which is founded on the UUPA, distinguish between land and non-land things (Muhtar et al., 2023). As a result of this split, landowners and buildingowners may have distinct legal identities (Bakung et al., 2023). The majority of these groups operate in aquatic locations, therefore building floating houses there is a great way to make advantage of the available space on the water. As a result, some people start using the river for both housing and commerce, while others construct floating homes to make the most of the river in their everyday life. Property rights to land and any improvements thereto are distinct from one another, according to Law No. 5 of 1960 on Basic Agrarian Principles (hence referred to as UUPA). Thus, there may be distinctions between the landowner and the building owner as ownership of the land is distinct from anything on it (Bakung et al., 2022). This is a consequence of the UUPA's horizontal separation concept. A legal question emerges from this description as to whether structures constructed on water may be considered equivalent to those constructed on land. The definition of land in Government Regulation Number 18 of 2021 regarding Management Rights, Land Rights, Flat Units, and Land Registration is as follows: "land" includes not only the surface of the earth (whether it be land or covered by water), but also the space above and within the earth itself, within specific areas whose use and utilization are directly or indirectly related to the surface of the earth.

According to this account, structures floating over the sea might legally claim ownership of the ground below. A building construction permit, a statement of physical possession, or a notification of tax payable can be used as evidence of building ownership according to Article 26 of Government Regulation Number 19 of 2021 regarding the Implementation of Land Acquisition for Development in the Public Interest (hereinafter referred to as PP 19/2021). Evidence of payment for utilities such as power, water, and telephone within the last three months, as well as land and building taxes. It seems from the wording of this article that the proof of a construction may be found in the documents listed therein. A large number of waterfront homes do not have proper title documentation. The lack of clarity on the status of land rights to structures constructed on water prevents their registration and, therefore, conversion. If a structure is constructed on water, the landowner, RT head, and witnesses must all sign a sealed document proving ownership of rights; the village and sub-district heads must then authenticate the signatures for registration. The National Land Agency (BPN) is responsible for registering rights in accordance with the cadastre concept, which aims to establish legal certainty in Indonesia. This involves creating an information system to assist with the administration of land plots or parcels within a given area, including matters pertaining to territorial boundaries, land rights, and legal considerations. Marine cadastre refers to the use of the cadastre concept in maritime and coastal regions. Although Indonesia is rich in coastal and marine resources, the country lacks an organization dedicated to managing maritime cadastre. This notion of marine cadastre is put into action by BPN via land-based laws.

The current approach to water space registration is not enough, according to community members; what is needed is a system of coastal and marine area measurements and mapping, in addition to the registration of proper rights. The conversion of old rights requires evidence in the form of witness statements and statements from the person concerned, which must be accompanied by witnesses and confirmed by the village head or someone known to know the history of the land, as stated in Article 24 paragraph (1) of Government Regulation Number 24 of 1997 concerning land registration (hereinafter referred to as PP 24/1997). It is necessary to convert ancient rights since evidence of ownership does not provide the same level of legal certainty. Use Rights and Building Use Rights are the only kind of land ownership that may be awarded to structures constructed on water. In other words, the certificate only takes into account the space within the structure, not the yard in front of it. Ownership Rights cannot be upgraded from a certificate of use rights or building use rights; however, they may be extended.

2. Authority To Guarantee Buildings That Stand On Water

In Indonesia, Mortgage Rights are used to provide assurances for real estate. Law 5 of 1960, an Agrarian Principles Law, establishes the framework for Indonesian land regulations, which are based on either customary or national land law (Arjie Sukmawijaya Arpian Putra & Nabila Sara Faninza, 2022). In Indonesia, Mortgage Rights are used to provide assurances for real estate. Law 5 of 1960, an Agrarian Principles Law, establishes the framework for Indonesian land regulations, which are based on either customary or national land law.

Article 1 Number 1 of Law Number 4 of 1996 concerning Mortgage Rights reads (Suartining & Djaja, 2023)

"Mortgage Rights over land and objects related to the land, hereinafter referred to as Mortgage Rights, are security rights imposed on land rights as intended in Law Number 5 of 1960 concerning Agrarian Principles, whether or not the following objects - other objects which are an integral part of the land, for the repayment of certain debts, which give certain creditors a preferred position over other creditors."

Several facets of law and regulations controlled by federal and state governments comprise the power to assure structures that rest on water. Listed below are a few of crucial aspects of this Indonesian authority:

1. Legislation:
 - a. Waterside structures are subject to the regulations outlined in Law No. 11 of 2020, which is part of the legislation pertaining to the creation of jobs.
 - b. Local plans for land and water are governed by Law No. 26 of 2007 on Spatial Planning and its ancillary rules.
2. Central and Regional Government Authorities:
 - a. PUPR and ATR/BPN are two related ministries that report to the central government, which has the power to establish broad policies, regulations, and oversight.
 - b. Permits and guarantees for structures that stand on water are provided by provincial and district/city administrations, who have the responsibility to develop and oversee the spatial planning of respective territories.
3. Building Construction Permit (IMB):
 - a. The owner of a structure that will be located on water must apply to the local authority for an IMB before construction may begin.
 - b. This IMB has to adhere to all administrative and technical standards set forth by relevant laws.
4. Environmental Impact Analysis (AMDAL):
 - a. Development on water usually requires an AMDAL to assess the environmental impact of the development.
 - b. This AMDAL must be approved by the competent authority before the IMB is issued.
5. Supervision and Law Enforcement:
 - a. The government, through related agencies, is responsible for supervising the implementation of development and ensuring compliance with the permits granted.
 - b. Law enforcement is carried out if there is a violation of applicable regulations.
6. Conservation and Environment: Compliance with environmental legislation necessitates that policies pertaining to water development likewise prioritize environmental preservation and conservation.

Typically, in order to guarantee water-based structures, it is necessary to coordinate between different federal and regional government agencies, pay close attention to relevant rules and regulations, and work towards sustainable and eco-friendly development. The primary objective of this research is to critically examine the legal framework governing ownership rights and the registration of buildings on water in Indonesia. Specifically, the study aims to identify and analyze the gaps and challenges within the existing legal system, particularly in relation to floating homes, which are integral to the socio-economic fabric of many Indonesian coastal communities. By exploring relevant statutes, judicial decisions, and legal literature, the research seeks to develop a comprehensive understanding of how current laws address—or fail to address—the unique issues posed by these water-based structures.

This research contributes to the field of property law and maritime law by shedding light on a relatively underexplored area: the legal treatment of floating structures. The findings will offer significant insights into the complexities of applying traditional land laws to non-traditional settings, such as floating homes, and will highlight the need for legal reforms that account for Indonesia's unique geographical and cultural context. Furthermore, this study will provide practical recommendations for policymakers, legal practitioners, and government agencies, particularly the National Land Agency (BPN), on how to improve the registration and protection of ownership rights for buildings on water. By addressing the legal ambiguities and challenges identified, the research aims to contribute to the development of a more coherent and inclusive legal framework that ensures the legal certainty and sustainability of floating homes in Indonesia. This will ultimately support the preservation of the cultural heritage and livelihoods of Indonesia's coastal communities while promoting sustainable development in maritime areas.

IV. CONCLUSION

Indonesia, as a maritime nation with many citizens depending on the sea for their livelihood, frequently registers floating dwellings constructed from wood at the water's edge. However, legal complications arise due to the separation of landowners and building owners under Indonesian land law. The Basic Agrarian Law defines property rights to land and the structures on it differently. According to Government Regulation No. 18 of 2021 and Government Regulation No. 19 of 2021, structures situated on water may be granted land rights, but many such properties remain unregistered, leading to ambiguous legal statuses.

The National Land Agency is responsible for the maritime cadastre and rights registration, but there is no dedicated entity within the agency to oversee marine cadastres specifically. Proper registration of water spaces requires accurate coastal and marine area measurements and mapping. Relying solely on witnesses for converting ancient rights is inadequate; substantial proof is needed. On water, only Use Rights and Building Use Rights are permissible, and Ownership Rights cannot be changed from the title certificate, though they may be extended. Measurements for structures on water should encompass the entire perimeter, excluding the front yard.

To ensure legal certainty, the conversion of ancient rights must be done with great care, following a transparent and thorough procedure. Resolving legal issues concerning the ownership of water-based structures is crucial for the long-term sustainability of Indonesia's coastlines and seas. Under Law Number 5 of 1960 concerning Agrarian Principles, the power to guarantee structures standing on water in Indonesia is exercised through Mortgage Rights. The horizontal division between land and non-land affects institutions offering material security.

Mortgage Rights Law No. 4 of 1996 defines this guarantee, which involves building permits, Environmental Impact Analysis (AMDAL), oversight, law enforcement, and environmental conservation. These aspects fall under the authority of both federal and regional governments, including the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency and the Ministry of Public Works and Public Housing. Cooperation between government authorities is essential to ensure environmentally friendly and sustainable development in line with relevant laws and regulations. For Indonesia to achieve sustainable development, policies must support efforts to protect the environment and provide legal clarity for structures situated on water.

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