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Legal Implications of Not Extending Building Use Rights on State-Owned Land

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Abstract---This study discusses the legal implications arising from the failure to extend the Right to Build (HGB) on state-owned land using a literature review method. The failure to extend the HGB results in the land reverting to state ownership and severing the legal relationship between the HGB holder and the land. This situation directly impacts legal certainty and protection of ownership rights over buildings constructed on the land. Buildings standing on state-owned land without a valid legal basis become vulnerable to expropriation, demolition, or other administrative actions by the government. This study emphasizes the importance of awareness and administrative compliance among HGB holders to renew their rights to ensure legal certainty, asset protection, and prevent economic losses. This study is expected to serve as a reference for building owners, the government, and policymakers in understanding and anticipating the legal consequences that may arise.

Keywords---building ownership, building use rights, extension of rights, legal implications, state land.

Introduction

The Right to Build (HGB) is one of the most crucial land rights in Indonesia's agrarian system, providing legal certainty for individuals or legal entities to utilise state-owned land for development and ownership of buildings for a specified period. HGB is the primary instrument enabling the development of various infrastructure and properties, thereby making an important contribution to economic development and regional progress (Supriyadi, 2025). However, in reality, not all HGB holders renew their rights when the validity period expires. Various reasons, ranging from lack of awareness, administrative negligence, to technical challenges, contribute to the failure to renew HGBs. The inaccuracy in renewing these rights leads to complex legal issues, particularly regarding the ownership status of buildings constructed on state-owned land (Rizq & Prettynisa, 2025).

State land, which is land directly controlled by the state and subject to land rights such as HGB, plays a crucial role in national land management. When an HGB on state land is not renewed, the legal relationship between the rights holder and the state as the landowner is severed. This has significant legal implications, particularly for structures already built on the land (Setiawan, 2021). Clarifying the legal status of such structures is a matter that requires thorough examination to avoid legal uncertainty that could harm the parties involved. This issue is increasingly relevant given the significant investments and developments carried out using the HGB scheme on state-owned land (Dewi, 2023).

The provisions regarding HGB as stipulated in the Basic Agrarian Law (UUPA) and its implementing regulations, such as Government Regulation No. 40 of 1996 and the latest regulations, aim to provide certainty, efficiency, and legal protection for rights holders. These provisions detail the duration of rights, procedures for extension, and various rights and obligations of HGB holders. However, in practice, both rights holders and the government face numerous challenges in the extension process, such as administrative issues, insufficient public awareness, and data inconsistencies that hinder the process (Sihombing, 2020).

The legal implications of not extending the HGB can have fatal consequences for the ownership rights of buildings located on the land. Within the framework of Indonesian agrarian law, buildings can legally be owned separately from the land on which they are built based on the principle of separation between land rights and building rights. However, if the land rights are not renewed, the rights to the buildings become vulnerable to the threat of revocation, or even the loss of ownership rights over the buildings. This creates legal uncertainty that impacts the economic value and legal protection of the assets that have been constructed (Nugroho, 2020).

In addition to ownership issues, economic aspects are also affected. The uncertainty of building ownership status due to the non-renewal of HGBs has the potential to hinder investment and development because the risk of losing rights to buildings becomes a burden for investors and land users. This situation can also lead to conflicts between building owners and the government or third parties with vested interests, thereby complicating dispute resolution and disrupting legal order in the field of land administration (Putri & Setyadji, 2024).

Another issue that has emerged is related to the low level of coordination between government agencies responsible for extending and registering land rights. Ineffective administrative processes and data inconsistencies have resulted in many rights that should have been extended becoming legally invalid. Additionally, the inadequate coordination has contributed to overlapping land rights and land disputes that are difficult to resolve. These factors underscore the urgency of conducting a comprehensive study on the legal implications of failing to extend HGB rights (Putri & Setyadji, 2024).

The concept of horizontal separation between land rights and building rights must be understood comprehensively, as it often becomes a source of legal issues when land rights are not renewed, but the building remains standing and is owned by another party. In Indonesian legal practice, this provision requires proper interpretation and approach to avoid overlapping rights and harmful conflicts. Therefore, a study of legal theory and practice is crucial to unravel and understand the real implications that arise (Mandasari, 2021).

Legal certainty is a fundamental aspect of land law that can influence social and economic stability in society. Legal uncertainty regarding the status of buildings on state-owned land whose rights have expired must be prevented to avoid undermining public trust in national land management. Proper handling of this issue will help create transparent, fair, and sustainable land management (Anggreani & Santoso, 2024). Additionally, legal protection for building owners who have invested is a key concern to ensure their rights are not lost when the HGB is not renewed. Alternative solutions such as the issuance of new rights, lease mechanisms, or concessions should be explored to provide practical and fair solutions for all stakeholders. Further analysis of court rulings handling similar disputes also provides insights into current legal resolution practices and the challenges faced (Mokoginta, 2022).

This situation indicates an urgent need to raise awareness and understanding among the public and relevant authorities regarding the importance of extending building use rights. Through public education and improvements to the land administration system, it is hoped that these issues can be minimised, thereby maximising benefits for development and collective well-being. Therefore, this study also aims to provide recommendations that can serve as a foundation for improving policies and the implementation of building right extensions (Supriyanto, 2025).

With the increasing demand for land as a limited resource for development, the regulation and management of Building Use Rights must be guided by the principles of certainty, fairness, and adequate legal protection. Therefore, an in-depth study of the legal implications of not extending HGB on building ownership is very important as part of efforts to maintain sustainable development and land use planning in Indonesia (Shin et al., 2021).

Method

The research method used in this study is a literature review or normative legal research, which involves examining and analysing various legal sources such as legislation, court decisions, literature, and relevant scientific journals. This approach aims to gain a deep and comprehensive understanding of the regulations and legal consequences of not extending the Right to Build on State-Owned Land, thereby producing a theoretical and normative analysis of the issue under study (Eliyah & Aslan, 2025; Bolderston, 2008).

Result and Discussion

Legal Consequences if HGB is Not Extended

The Right to Build (HGB) is one of the rights over land in Indonesia, granted for a specific period and may be extended following applicable laws and regulations. If the holder of the HGB fails to renew it after its validity period expires, legal consequences arise that affect the ownership status of the building constructed on the state-owned land.

These legal consequences involve the status of the land, the building, and the rights and obligations of the parties involved (Zarkasyi, 2025).

First, when the HGB expires and is not renewed, the land that was previously subject to the HGB reverts to state ownership. This status means that there is no longer any legal relationship between the former HGB holder and the land in question. The state de jure regains control of the land and has the authority to determine its use or grant rights to other parties (Noviana, 2023).

Second, buildings standing on HGB land that have not been extended become a separate issue in the context of ownership. In Indonesia, the principle of horizontal separation is recognised, where the rights to land and buildings can be owned by different parties. However, when the HGB expires, the status of the building becomes uncertain as there is no longer a legal basis binding the building to the land, potentially leading to the state taking over the building if no resolution is reached through (Estidina, 2019).

Furthermore, building owners no longer have strong legal protection after the expiry of the HGB. The state can take action following its authority, such as requesting the owner to demolish the building, take it over, or allow them to apply for new rights to the land in question. This certainly poses a risk of economic loss for the buildings that have been constructed, especially if there has been a large amount of investment (Calista & Djaja, 2024).

It should be noted that in some cases, if the owner of a building wishes to retain the building and its legal status, they must apply for new rights under applicable regulations. This application may take the form of a new HGB, right of use, or other status permitted by the state. However, state approval of such applications is not automatic and may be influenced by government policy and considerations of public interest (Arimbawa, 2023).

Parties with an interest in HGB land transactions, such as creditors or tenants, are also directly affected. For example, if a building is mortgaged, when the HGB expires and is not renewed, the creditor's position becomes vulnerable because the collateral in the form of the building loses its strong legal basis. Tenants also lose certainty regarding the use of the land and buildings (Sani, 2024).

Some business operators who have built structures on HGB land also face potential business losses due to the loss of land rights and the uncertainty of the status of their buildings, which impacts the continuity of their operations. This can lead to legal disputes between HGB owners, the state, and parties with an interest in the buildings (Widiyono & Khan, 2023).

From an administrative perspective, the non-renewal of HGB must be immediately recorded and announced by the National Land Agency (BPN). This registration is crucial to prevent overlapping claims or unlawful claims to state land by parties no longer holding legal interests (Suartining, 2023).

Land deed officials (PPAT) are also authorised to refuse to issue deeds relating to land and buildings if the HGB has expired and has not been extended, to protect legal certainty regarding the status of such rights. Article 34 of Government Regulation No. 40 of 1996 stipulates that after the HGB expires, the rights holder is allowed to apply for new rights within a specified period. However, if this is not done, the state may use the land for other purposes, either for public interest or to grant rights to third parties (Astuti, 2021).

In practice, the state may take enforcement measures against buildings constructed on HGB land that has not been renewed, such as issuing warnings, demolishing the buildings, or transferring ownership of the buildings to the government if no resolution is reached. The non-renewal of HGB also provides an opportunity for other interested parties to apply for new rights to the land, leaving the former HGB holders vulnerable to losing their management rights over the land and buildings if they do not promptly take legal action (Angga, 2023).

Disputes arising from the non-renewal of HGB often drag on due to legal ignorance or unilateral claims, so it is important to seek mediation or resolution through the courts to find justice for all parties who have been harmed. In many cases, the court will assess whether the former HGB holders and building owners have fulfilled their administrative obligations, as well as uphold the principles of justice and legal certainty, following applicable regulations (Prasetya, 2021).

From a policy perspective, the government can evaluate the procedures and requirements for extending HGBs to make them easier for the public to understand and implement, thereby minimizing the occurrence of similar issues in the future. In terms of investment and legal protection, the non-extension of HGBs has the potential to reduce investment interest in the property and infrastructure development sectors due to the vulnerability of losing rights and ownership of buildings. For HGB holders who do not renew their rights after the expiration period, it is important to immediately coordinate with the BPN or relevant authorities to find solutions regarding the status of the buildings or land in question to avoid losing investment value and legal certainty (Hakim & Fathurahman, 2016).

Therefore, the non-extension of HGB has a very broad impact, causing risks of loss of building ownership, economic losses, investment barriers, legal disputes, and even asset takeover by the state. Prevention and resolution

of this issue require attention, socialisation, and administrative improvements so that all stakeholders can be protected legally and economically.

Status of Building Ownership on State Land Without HGB Extension

The ownership status of buildings on state-owned land without an extension of the Right to Build (HGB) is one of the important issues in Indonesian agrarian law. When the HGB expires and no extension is sought by the right holder, legal uncertainty arises regarding the status of the buildings standing on the land. This problem stems from Indonesia's land law system, which adopts the principle of horizontal separation, where the right to land and the right to buildings can be owned by different parties (Muljadi & Widjaja, 2020).

In essence, after the HGB expires without renewal, the land automatically reverts to full state ownership. This is regulated by legislation, particularly the Basic Agrarian Law (UUPA) and its derivative policies. However, the ownership status of buildings standing on the land becomes a separate issue because, in essence, land rights are the primary legal basis for constructing and owning buildings (Pratama, 2024).

Ownership of buildings on state-owned land without an extension of the HGB becomes unclear, as there is no longer any legal relationship between the former HGB holder and the land. The state has full authority to determine the fate of the buildings, which may include eviction, expropriation, or, under certain conditions, granting the former owners the opportunity to apply for new rights (Yulianto, 2022).

This situation demonstrates the fragility of legal protection for building ownership that was previously guaranteed during the HGB period. If the land returns to state ownership, the buildings still standing on it can be categorised as "ownerless" objects, allowing the government to take certain measures under the applicable legal considerations and requirements (Hidayat, 2022).

In practice, building owners can still apply for new rights from the government as long as the building is deemed usable and does not violate spatial planning regulations or public interests. However, the success of these applications is highly dependent on state policy and cannot be guaranteed automatically, creating uncertainty for building owners regarding the future of their assets (Fadhillah, 2025).

The status of buildings that are not based on legal relations with the land will cause problems in administrative aspects, particularly in terms of asset registration, transfer of rights, and collateral or credit guarantees at financial institutions. Banks are generally reluctant to accept buildings standing on state-owned land without a strong legal basis due to the high legal risk involved (Sugiharto, 2022).

From an investment perspective, the absence of an extension of the HGB will result in significant economic losses for building owners. The commercial value of buildings will decline sharply due to the lack of legal certainty and the threat of expropriation by the state if a resolution is not promptly sought following applicable regulations. Disputes also frequently arise between former HGB holders and the state or third parties who may acquire new rights over the land. Prolonged disputes often occur due to unclear ownership status of buildings, inadequate socialisation of extension procedures, and administrative delays by relevant authorities (Kurniawan, 2021).

Furthermore, in matters involving public interests, the state has the right to utilise land and assets on it for development programmes, public interests, or grant rights to third parties through auctions or administrative decisions. At this point, buildings on state-owned land whose HGB has not been extended may be demolished, taken over, or compensated following applicable regulations (Supriyanto, 2025).

Legal protection for building owners becomes very weak after the land rights expire. They must actively manage the status of the land and buildings, either by applying for new rights, establishing a lease status, or seeking administrative solutions recognised by the state. Lack of awareness of the expiry of HGB can result in the complete loss of ownership of the building (Rizq & Prettyynisa, 2025).

In some cases, the government may grant a grace period or transition period for building owners to arrange new ownership. However, if left unaddressed, the state has the right to take enforcement actions to ensure that state-owned land is utilized following spatial planning or national and regional development needs. If buildings are left standing without a clear legal status, this may result in violations of spatial planning regulations, administrative violations, and create opportunities for misuse or speculation regarding state assets (Setiawan, 2021).

The implications of this situation also encompass social aspects, where building owners will suffer moral losses in addition to material losses, especially if significant investments have been made in construction on state-owned land. The state typically prioritises public interests over individual interests in the management of such land. In an ideal situation, there should be a clear and fair resolution mechanism for former HGB holders facing issues regarding the status of buildings on state-owned land. Resolution can be achieved through mediation, applications for new rights, or compensation if the state expropriates the buildings for public interest purposes (Dewi, 2022).

It is also important to improve the land administration system to encourage HGB owners to always pay attention to deadlines and extension procedures, to avoid legal problems in the future. Socialisation and assistance to rights holders are key to preventing vacant building ownership status (Sihombing, 2020).

Overall, the ownership status of buildings on state-owned land without an extended HGB is in a very weak position, legally, economically, and socially. Without proactive action from building owners or the government, assets built through hard work are at significant risk of being lost or reclaimed by the state. Therefore, awareness of the importance of HGB extensions and monitoring of land rights administration is crucial in maintaining legal certainty regarding building ownership in Indonesia.

Conclusion

The legal implications of not extending the Right to Build (HGB) on state-owned land create legal uncertainty for building owners. Once the HGB expires and is not renewed, the status of the land automatically reverts to state ownership, while the legal relationship between the HGB holder and the land is severed. This has implications for the status of the building standing on the land, as the building owner loses the legal basis to retain full ownership rights.

Without an extension, buildings on state-owned land are at high risk of being taken over or vacated by the state. The state has full authority to determine the fate of these assets, whether they are used for public purposes, transferred to third parties, or even demolished following applicable regulations. In addition to the physical loss of assets, building owners also face obstacles in obtaining legal protection, utilising the buildings for economic purposes, or using the buildings as collateral in banking transactions.

Therefore, it is important for HGB holders to proactively extend their rights to maintain legal certainty and protection for the buildings they have constructed. Failure to extend HGB rights not only results in the loss of land rights but may also lead to economic losses, loss of investment, and potential disputes between building owners, the government, and other interested parties. Awareness, administrative compliance, and efforts to improve land management are key to preventing the risk of losing building ownership due to the expiration of HGB rights.

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