



## Legal Protection for Herities Against Renewal of Use of Buildings That Have Ended in Bukittinggi City

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### **Abstract**

The whole earth, water and space are included in the natural wealth contained therein within the territory of the Republic of Indonesia as a gift from God Almighty which is a national wealth. The earth, water and natural resources contained therein are at the highest level controlled by the state, as an organization of power for all the people. The state grants HGB for 30 years, and can be extended for 20 years. When the HGB dies, the rights do not automatically disappear, because the government still provides the opportunity to be re-registered through a 30-year renewal of rights. And if the HGB holder dies, the state still provides the opportunity to re-register his rights to the heirs. The problems examined in this thesis are: 1) What is the legal protection for the heirs against the renewal of building use rights that have expired in Bukittinggi City? 2) How is the process of renewing the Right to Build carried out by the heirs in Bukittinggi City? The approach method used in this research is the normative juridical method. This research uses an approach to the principles of law and legislation. The data used are primary data and secondary data. The data sources in this research are library research and field research. Data is collected through the study of documents or library materials. The data obtained were processed through editing and coding, then analyzed using qualitative analysis. Furthermore, the data is presented descriptively. Based on the results of the study, the authors conclude: 1) Legal protection for the heirs is, the HGB exceeds the time limit and the right holder dies, the right is not immediately lost, can be re-applied on the condition that one of them, the land is still in the control of the heir legitimate. 2) In the process of extending the HGB at the Padang City BPN, the applicant requests an extension of the HGB by attaching the ID card of the right holder, PBB, Family Card and certificate of HGB to be extended. the process through registration, measurement, issuance of SK Hak, printing certificates and certificates can be accepted by the applicant.

**Keywords:** *Inheritance; Building Use Rights; Padang City National Land Agency*

### **Introduction**

The right to use the building has a period of time or is temporary, the right to use the building can be extended for 20 years at the request of the right holder. This is regulated in Article 35 paragraph 2 of the LoGA. Land with the status of building use rights if not extended it will result in the land status

ending/removing and returning the rights to the land holder. this is regulated in Article 36 of Government Regulation Number 40 of 1996 concerning Cultivation Rights, Building Use Rights and Land Use Rights.

The right to use the building can be transferred to another person. Switching means the transfer of land rights from the right holder to another party due to a legal event, namely the death of the right holder or known as inheritance. The process of inheritance occurs due to the death of a person with the death of a number of assets, both material and immaterial, with no distinction between movable and immovable property.

Basically the process of transferring a person's assets to his heirs called inheritance occurs only because of death, therefore inheritance will only occur if the following three elements are met:

1. Heir

There is someone who died.

2. Heirs

Is a person who is still alive as an heir who will receive an inheritance when the testator dies.

3. Inheritance There are a number of assets left by the testator.

With death, a person's ownership of land ends and results in the transfer of assets from the deceased, both material and immaterial assets to the heirs of the deceased. The assets that are the inheritance of the heir have died while the heirs are still alive when the inheritance is open.

There is a change in the status of land to state land due to the expiration of a Building Use Right controlled by the previous heir, but the heirs are still entitled to the land because the state gives priority to the heirs who still have the rights to the land, but the heirs must re-register to obtain their rights to the Land Office where the land is located. This has been regulated in Article 1 letter b of the Decree of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 6 of 1998 concerning the Granting of Ownership Rights to Land for Residential Houses.

Land registration that must be carried out by heirs to obtain their rights aims to obtain their rights. This is regulated in the purpose of land registration as described in Article 3 of Government Regulation Number 24 of 1997 concerning Land Registration. In the event of a transfer of land rights as a result of inheritance, where the testator dies, it will be handed over to the heirs. And if the property to be inherited is a piece of land that has a Building Use Right on top of the land right, but the Building Use Right has expired in accordance with the stipulated period of time.

The application for granting rights submitted by the heirs must be based on a certificate of heirs made where the last address of the right holder (heir) on the land resides. The heirs or the heirs' proxies register with the National Land Agency of the city of Bukittinggi, it is regulated in Article 42 paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration.

In this case, it also happened in 2009 in Bukittinggi City, where the heir died, and his Building Use Rights Certificate had expired but during his lifetime there was never an extension of the rights at the Bukittinggi City BPN. After the rights holder dies, the application for renewal of rights is carried out by the heirs in 2021 at the Bukittinggi City BPN. The process carried out is the same as the process for the first time registration of land rights, namely the applicant must attach several requirements

The granting of this new right is no longer granted with the status of Hak Guna Bangunan but is immediately given ownership rights to all heirs by including the names of all heirs. This is regulated in Article 1 point 10 of the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights, stating:

"Renewal of rights is the granting of rights to the same land to the holder of the same rights which can be submitted after the validity period of the rights concerned expires".

Based on the description above, the authors are interested in writing the title of "Legal Protection for Heirs Against Renewal of Expired Building Use Rights in Bukittinggi City".

### **Research Methods**

The approach to the problem that will be used in this research is a normative juridical approach, namely by examining library materials or secondary data which includes books and legal norms contained in the laws and regulations relating to the title in this study. Normative juridical research is a research method that refers to norms which is carried out by analyzing problems in research through an approach to legal principles and legislation. Quoting Ronald Dworkin's term, this research is also called doctrinal research, which is a study that analyzes the law, both written in the book (law as written in the book), and decided by the judge through the court process (law it is decided by the judge through judicial processes).

### **Research Result**

Inheritance law is one part of civil law as a whole and is the smallest part of family law. Inheritance law is closely related to the scope of human life, because every human being will experience a legal event called death. The legal consequences that then arise with the occurrence of a legal event of a person's death include the problem of how to manage and continue the rights and obligations of a person who dies.

Law serves to provide protection of human interests. In order for human interests to be protected, the law must be implemented as the law was formed for humans. So that there is no overlapping of interests between one human being with another human being.

If viewed from the legal protection regarding the acquisition of land rights, from land controlled and land cultivated by the owner. So, the process of land rights certification certainly needs to be carried out for every Indonesian community, especially in the City of Bukittinggi

The right to use the building is a right granted by the state to Indonesian citizens which has a period of 30 years, and can be extended for 20 years, and the rights can be renewed for 30 years.

Therefore, The right to use the building may expire and the rights to be nullified within the period stipulated by the laws and regulations, which have been mentioned in Government Regulation No. 40/1996 concerning the Right to Build, the Right to Cultivate, and the Right to Use, and have also set forth in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units and Land Registration.

The right to use the building, if there is no application for an extension of the right at the BPN office, the control of the land right is returned to the state. The tenure rights for the previous HGB holders have expired. However, if the previous The right to use the building holder wants to get these rights back, it can be processed through a renewal of rights.

However, the state can still give these rights either to the right holder (if still alive) or to his heirs, with the following conditions:

- a. The land is still cultivated and utilized properly in accordance with the circumstances, nature and purpose of granting rights;
- b. The conditions for granting rights are fulfilled properly by the rights holders;

- c. the right holder still fulfills the requirements as the right holder;
- d. the land is still in accordance with the spatial plan;
- e. not used and/or planned for the public interest;
- f. natural resources and the environment;
- g. condition of the land and the surrounding community.

In this case, not immediately if a right has expired based on the applicable provisions, then the right will be lost and return to the state. The UUPA as the basis of agrarian law in Indonesia has mandated the protection and legal certainty of all land rights attached to the land, including the use of the building rights.

In terms of legal protection for heirs, where the inheritance obtained is in the form of Building Use Rights whose rights have expired, these rights can be renewed by the heirs by proving that they are legal heirs based on the Certificate of Heirs that have been known by the Lurah or the local Village Head, witnessed by at least 2 witnesses outside of kinship with the heirs.

After the appointment of the Certificate of Heirs, the heirs can renew their Building Use Rights at the local BPN, by fulfilling the requirements of the BPN and following the existing procedures. Even though the right to use the building has expired and the right holder has died, the legal heirs can still get the right to the inheritance left behind.

In this case, what happened to one of the plots of land that was granted a Building Use Right was located in Garegeh Village, Mandiangin District, Bukittinggi City, where the Building Use Right expired on April 20, 2010. The holder in this case is Mrs. Siti Syamsiah (Alm. ), has controlled this HGB plot of land from 1980, where on the land one building in the form of a house has been built. Based on the information from Mr. Yondri Faisal, as one of the heirs of Mrs. Siti Syamsiah (late), stated that, the Certificate of Building Use Rights, his party and his family did not know if there should be an extension of the Rights to the National Land Agency of Bukittinggi City.

Furthermore, after Mrs. Siti Syamsiah passed away on February 3, 2012, based on the Death Certificate dated October 7, 2019, which was issued by the Head of Garegeh Village, Mandiangin District, Bukittinggi City. At this time, Mr. Yondri Faisal and other heirs just found out that the expired HGB can be renewed at the Bukittinggi City BPN, because the renewal of rights is carried out on HGB whose rights have expired to regain the rights of the heirs through their surviving heirs.

In this case, the state guarantees all the rights of its citizens, even though the HGB has expired, it does not mean that the rights of citizens to the land they control also end. Because the state is the largest organization, the shelter for the population, and the place where social relations occur that cannot be separated from problems, especially problems in the land sector, the state is obliged to guarantee all existing community rights. So that it doesn't cause controversy in the future.

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