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Certainty and Legal Protection of SHMSRS Holders Due to the Refusal to Extend or Renew the Right to Use Shared Land

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Abstract

Background: The development of vertical housing in Indonesia has increased the need for legal certainty for holders of Apartment Ownership Certificates (SHMSRS). Problems arise because SHMSRS do not stand alone but are instead embedded in joint rights to common areas, common objects, and common land.
Objective: This study examines the epistemological shift from human judgment to algorithmic knowledge in the implementation of Financial Accounting Standards (SAK) and Quality Management Systems (SMM). Drawing on positivism, interpretivism, and pragmatism, it explores whether AI-generated outputs constitute valid accounting knowledge or merely computational representations of professional judgment.
Methods: This study employs a qualitative-interpretive approach through conceptual analysis and examination of practitioners' perspectives on the reliability, transparency, explainability, and trustworthiness of AI-assisted decision-making.
Results: The findings show that AI enhances efficiency, predictive accuracy, and analytical capabilities in accounting and auditing. However, its application also creates epistemological challenges, including limited algorithmic transparency, reduced explainability, and the potential weakening of professional skepticism. The shift from assessment-based expertise to data-driven inferential knowledge alters the traditional epistemic authority of accountants and auditors. The implementation of SAK and SMM consequently requires clearer professional responsibility, human oversight, and accountability to maintain the quality of financial reporting and audit processes.
Conclusion: Legal protection needs to be built through preventive and repressive mechanisms, namely the obligation for transparency of land status by developers, strengthening of PPJB clauses, the role of notaries and PPAT, government supervision, access to consumer dispute resolution, and proportional compensation mechanisms if unit owners suffer losses.

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INTRODUCTION

Urbanization, population growth, and limited urban land encourage the development of flats and apartments as a form of vertical housing (Jamika et al., 2023). In the Indonesian legal system, the ownership of a unit of flats is evidenced by the SHMSRS which grants individual rights to certain units as well as joint rights to common shares, common objects, and common land (Furqon & Habib, 2022; Setiawati, 2023; Wahyuddin et al., 2025). The character of ownership causes the rights of the unit owners to be inseparable from the status of land rights that are the basis for the establishment of flats (Stella & Djaja, 2026).

Unlike Property Rights (Hak Milik) which are hereditary and perpetual, HGB carries temporal constraints and requires periodic renewal. Hak Pakai (Right of Use) is a distinct right category that similarly involves time-bound entitlements, impacting the long-term interests of unit owners (Martin, 2025).

This condition raises legal problems because the HGB update does not occur automatically. HGB holders are required to submit an application to land agencies by meeting various requirements that have been set. These requirements include administrative completeness, suitability of land use with the regional spatial plan, no violation of land use provisions, and fulfillment of the consent of the Management Rights holder (HPL) if HGB stands on HPL land (Mudakir Iskandar Syah, 2019; Sihite & Widjaja, 2025). In addition, the renewal process is also influenced by the land policy in effect at the time the application is submitted, so there is a possibility that the application cannot be granted if these conditions are not met.

Uncertainty regarding the sustainability of HGB has direct implications for the legal certainty of the ownership of flats (Isnaini, 2025; Sugita et al., 2020; Tanthowi et al., 2024). Even though the owner has a Certificate of Ownership of Flats (SHMSRS), this right is still juridically related to the status of the right to the common land on which the building is based (Susanto & R., 2020). If the HGB cannot be extended or renewed, there will be legal consequences for the status of shared land, common shares, common objects, and the protection of the rights of the owners of the flats. Therefore, the HGB reform mechanism is a very important issue in ensuring legal certainty, protection of owners' rights, and the sustainability of the control and use of commercial flats in Indonesia (Amir et al., 2026; Yakob Udi, 2018).

Previous studies have emphasized the importance of preventive and repressive legal protection in the land registration system, certificate dispute resolution, and protection for HGB holders (Onny Medaline, 2024). However, most of these studies have not specifically addressed the legal consequences for SHMSRS holders when the HGB on shared land expires and the renewal is rejected. Thus, the problems in this study are not only in the land aspect, but also in the protection of ownership, consumer protection, and legal certainty of flats transactions (Hermawan et al., 2025; Weydhani Putri et al., 2024).

From a consumer perspective, apartment buyers are often in a weaker information position than developers (Suwardi, 2026; Wijaya et al., 2018). Buyers generally understand SHMSRS as proof of ownership of the unit, but do not always obtain adequate explanation of the status of the shared land, the remaining term of the HGB, the position of the HGB on state or HPL land, the costs and procedures of renewal, and the legal risks if the renewal of the HGB is refused (Hidayatullah & O, 2024). This condition shows the close relationship between the law on flats and Law Number 8 of 1999 concerning Consumer Protection, especially the consumer's right to true, clear, and honest information about the conditions and guarantees of goods and/or services (Lesmana & Anindita, 2021; Namira, 2025).

The obligation of developers to provide information on the status of land also gained a basis in the legal regime of flats and housing. Law Number 20 of 2011 stipulates that PPJB for flats must be carried out after there is certainty, among other things, regarding the status of land ownership. Furthermore, Government Regulation Number 13 of 2021 emphasizes the implementation of flats, the separation of flats, and the issuance of proof of ownership of flats. In the context of marketing and PPJB, Government Regulation Number 12 of 2021 emphasizes the need for correct and clear marketing information, including the certainty of land rights and tenure status. Therefore, providing information on the status of apartment land is not just business ethics, but a legal obligation directly related to consumer protection.

This research is significant because it clarifies the legal status and consequences for SHMSRS holders when the HGB over shared land is not renewed. It also formulates comprehensive legal protection mechanisms encompassing preventive and repressive measures, addresses regulatory gaps by proposing legislative reforms, and provides practical guidance for developers, notaries, Land Deed Officials (PPAT), property managers, and government agencies in protecting apartment unit owners as consumers of vertical housing.

The novelty of this study lies in its comprehensive treatment of the multi-faceted legal consequences arising from HGB non-renewal on SHMSRS holders, integrating land law, consumer protection, and dispute resolution into a cohesive normative analysis that addresses regulatory gaps identified in current Indonesian law.

The implications of this study are both theoretical and practical. Theoretically, the study strengthens the integrated interpretation of land law, flats law, and consumer protection law in determining the legal position of SHMSRS holders when the right over shared land cannot be extended or renewed. Practically, its findings provide a basis for clearer disclosure of land status in marketing materials and PPJB, more careful verification by notaries and PPAT, timely coordination among developers, PPPSRS, HPL holders, and land offices, and the formulation of fair dispute-resolution and compensation mechanisms for unit owners acting in good faith.

METHODS

This research uses normative legal research methods with a statutory approach, a conceptual approach, and a case approach. The legislative approach is used to examine the norms that govern HGB, SHMSRS, flats, consumer protection, PPJB, and land registration. A conceptual approach is used to analyze the theory of legal certainty, the theory of legal protection, good faith, the principle of transparency, and the concept of property rights.

The case approach is used to connect normative arguments with concrete problems that have occurred in practice. This study examines the dispute over the Mangga Dua Court Apartment as studied in the Supreme Court Decision Number 364 PK/Pdt/2016. The case is relevant because it shows the problem of HGB above HPL, cancellation or obstacle to the extension of rights, and its impact on unit owners who have acted as buyers in good faith. In addition, this study uses limited comparators of leasehold systems in Singapore, Hong Kong, and China to demonstrate the importance of transitional rights arrangements when the land rights underlying high-rise buildings expire.

The primary legal materials in this study include the Constitution of the Republic of Indonesia in 1945, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 8 of 1999 concerning Consumer Protection, Law Number 20 of 2011 concerning Flats, Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, Government Regulation Number 12 of 2021, Government Regulation Number 13 of 2021, Government Regulation Number 18 of 2021, Civil Code, and relevant court decisions.

Secondary legal materials consist of law books, scientific journals, doctrines of experts, and the results of previous research that discuss land law, flats, HGB above HPL, consumer protection, PPJB, notaries, PPAT, and legal certainty. The collection of legal materials is carried out through literature studies. The analysis was carried out qualitatively with grammatical, systematic, and teleological interpretations to find the relationship between the applicable legal norms, regulatory vacancies, and legal protection models that can be provided to SHMSRS holders.

RESULTS AND DISCUSSION

Results

Legal Construction of SHMSRS and HGB

The results of the study show that SHMSRS is proof of ownership of individual and separate flats, but still attached to joint rights to common shares, common objects, and common land. Thus, SHMSRS holders have two layers of legal interests, namely the exclusive interest in the unit owned and the collective interest in the common elements that support the existence of the unit.

Table 1

Legal Relationship between SHMSRS and HGB

Legal Elements	Legal Status
Flats Unit	Individual ownership of a particular unit
Shared Parts	Collective ownership based on proportional comparative value
Shared Objects	Collective ownership for the benefit of all owners/occupants
Shared Land	Joint rights that cannot be separated from the existence of flats

HGB	Legal basis for land use that has a certain period of time

This relationship shows that the existence of HGB is the juridical basis for the use of common land. As long as the HGB is still in effect, the SHMSRS has a relatively stable legal basis. On the other hand, if the HGB ends and the application for extension or renewal is rejected, then the question arises regarding the sustainability of the common rights to the land, the management of the building, and the guarantee of ownership of the SHMSRS holders.

Legal Consequences of Refusal to Extend or Renewal HGB

The refusal to extend or renew the HGB not only has administrative consequences for HGB holders, but also has a layered impact on SHMSRS holders. This impact mainly arises because the unit owner is not a party who always has direct control over the management of the HGB, while the value and sustainability of the unit is highly dependent on the status of the shared land.

Table 2
Consequences of Refusal to Upgrade HGB

Consequences	Impact on SHMSRS Holders
End of HGB	The basis for the use of shared land becomes uncertain
Vacancy of special norms	The sustainability status of SHMSRS can be interpreted differently by governments, developers, PPPSRS, creditors, and courts
Economic risks	Unit selling value, credit collateral, and transfer liquidity may decrease
Ownership risk	The unit owner may lose the economic benefit of the unit even if they have purchased in good faith
Potential disputes	Disputes can occur between unit owners, PPPSRS, developers, HPL holders, creditors, and the government

The absence of a regulation that expressly answers the consequences of the rejection of the renewal of the HGB on the common land indicates a regulatory gap. This gap needs to be closed through a systematic interpretation of the UUPA, the Flats Law, the Consumer Protection Law, Government Regulation Number 13 of 2021, Government Regulation Number 18 of 2021, and PPJB norms in Government Regulation Number 12 of 2021.

Land Status Transparency Obligations and Consumer Protection

The results of the study show that transparency of soil status is a very important preventive protection instrument. The Consumer Protection Law gives consumers the right to obtain true, clear, and honest information about the condition and warranty of goods and/or services. In the purchase of an apartment, the information must include the status of the land rights, the remaining term of the HGB, whether the HGB stands on state land or HPL, the obligation to obtain the recommendation of the HPL holder, the renewal fee, and the risk if the renewal is rejected.

In the flat regime, this obligation is emphasized through provisions regarding PPJB and the marketing of flats. Government Regulation Number 13 of 2021 provides the basis for the implementation of flats, including the separation of flats and the issuance of proof of ownership. Meanwhile, Government Regulation Number 12 of 2021 emphasizes that marketing must contain correct and clear information and be supported by certainty of land rights and tenure status. Therefore, developers who do not fully disclose the status of shared land can be considered to be in violation of legal obligations while reducing the legal certainty of consumers.

Case Study: Mango Apartment Dispute Two Court

The case approach in this study shows that the Mangga Dua Court Apartment dispute is an important example of the vulnerability of unit owners when HGB over shared land is related to HPL. In the Supreme Court Decision Number 364 PK/Pdt/2016, the problem that arises is related to the relationship between the developer, the unit owner, and the holder of authority over the land on which the building is based. This case shows that the issue of HGB renewal cannot be seen solely as an administrative matter for the developer, because the consequences are directly felt by unit owners who have purchased in good faith (Maharani et al., 2021).

The case teaches a lesson that the legal protection of SHMSRS owners must begin from the marketing and PPJB stages. Information regarding HGB and HPL must be submitted openly, stated in the transaction document, and verified by the authorized officials. If such information is not provided adequately, consumers lose the opportunity to assess legal and economic risks before making a purchase.

The Role of Notaries and PPAT in Ensuring Legal Certainty

Notaries have an important role in providing legal certainty from the PPJB stage, follow-up agreements, and other deeds related to the transaction of flats. Notaries not only make authentic deeds, but also provide legal counsel to the parties, conduct an examination of the developer's documents, and ensure that clauses regarding the status of the land, the remaining term of the HGB, renewal fees, developer responsibilities, and compensation mechanisms are clearly listed.

PPAT plays a role in the transfer of rights stage after the flats are eligible for transfer. In the event that the joint land HGB is nearing its expiration, PPAT needs to ensure that the parties understand the status of the land and its legal consequences. Thus, notaries and PPAT function as preventive instruments to prevent disputes as well as as as a reinforcement of evidence if disputes occur.

Discussion

Legal Status of SHMSRS After the Expiration of HGB

The legal status of SHMSRS after the end of the HGB must be understood systematically. The SHMSRS does have a close relationship with HGB as the basis for common land rights, but the unit owners have acquired the rights through legal transactions, price payments, issuance of ownership documents, and registration by the state. Therefore, the expiration of the HGB should not automatically remove the legal interests of the unit owner without fair procedures, protection, and compensation.

A purely formal interpretation of the end of the HGB would put SHMSRS owners in a very vulnerable position. Unit owners can lose out on the economic benefits of the purchased property, even though they are not always the party taking care of the HGB renewal (Jamika et al., 2023). Therefore, the relationship between SHMSRS and HGB needs to be interpreted by considering the principles of justice, good faith, consumer protection, and the state's responsibility in ensuring legal certainty of land registration.

Legal Certainty for SHMSRS Holders

Legal certainty is one of the fundamental principles in the state of law that requires that every legal norm be composed clearly, consistently, stable, and predictable in its application. Every legal subject through legal certainty can know the rights, obligations, and legal consequences of every action taken so as to create protection for the legal interests of the community. In the context of commercial flats ownership, legal certainty is very important because the owner of the flats obtains SHMSRS issued by the state as proof of legal ownership. The issuance of the certificate raises a reasonable expectation that the state will provide protection for the sustainability of the ownership rights in accordance with the applicable legal provisions (Jamika et al., 2023).

Problems arise when flats stand on land with Building Rights (HGB) status which has a limited period of time. Although the SHMSRS grants ownership rights to the flats, the existence of these rights is still juridically dependent on the status of the right to the common land on which the building is based. If the HGB period ends and the renewal application is rejected, the laws and regulations have not provided comprehensive regulations regarding the legal consequences for the status of SHMSRS and the rights of owners of flats. The void or unclarity of these norms creates a space of legal uncertainty because there are no strict guidelines regarding the settlement of the rights and obligations of the parties.

This uncertainty has the potential to cause differences in interpretation among various parties who have interests in flats. Unit owners may assume that SHMSRS still provides full protection of their ownership rights, while developers may have different views on the responsibility for HGB updates. On the other hand, the Association of Owners and Occupants of Flats (PPPSRS) faces uncertainty regarding its authority in representing owners to take care of the renewal or renewal of HGB. If the HGB stands on the land of Management Rights (HPL), the HPL holder also has the authority to give approval so that there can be a difference in interests between the HPL holder and the owner of the flat. In addition, banks as creditors need certainty regarding the status of guarantees for SHMSRS, land offices need a clear legal basis in processing renewal applications, while courts have the potential to give different decisions if there are no explicit norms.

To realize legal certainty, more detailed arrangements are needed regarding the mechanism for the renewal and renewal of HGB as the basis for flats. The arrangement must at least contain the determination of the party responsible for submitting the HGB renewal application, both developers, PPPSRS, and other parties appointed based on the regulations. In addition, it is necessary to strictly regulate the division of responsibility for administrative costs, procedures for submitting applications, the deadline for managing before the HGB ends, the mechanism for obtaining approval from HPL holders if the land is above the HPL, and coordination procedures between PPPSRS, owners of flats, and land agencies.

Regulations also need to provide legal protection to owners of flats in good faith. Owners who have legally purchased the unit and fulfilled all their obligations should not bear the legal consequences of the negligence of the developer or other parties in taking care of the HGB update. Therefore, provisions are needed that regulate forms of protection for consumers, including a settlement mechanism if the HGB renewal is rejected, the right to obtain compensation, the responsibility of the developer or the management party, and legal remedies that can be taken by the unit owner.

Without comprehensive regulation on these aspects, legal risks will shift to consumers as the party with the weakest position in the information structure and legal relationships. Owners of flats generally have no control over the HGB renewal process or access to information about the status of the land on which building ownership is based. As a result, they could potentially lose certainty of their ownership rights despite having acted in good faith and fulfilled all obligations as buyers. Therefore, the establishment of regulations that provide certainty regarding the renewal of HGB and its legal consequences is an important step to ensure the protection of the rights of apartment owners, increase legal certainty in the land sector, and realize justice for all interested parties.

Legal Protection for Apartment Buyers as Consumers

Legal protection for SHMSRS holders can not only be analyzed through land law, but also through consumer protection law. In apartment transactions, the developer is a business actor and the buyer is a consumer. Therefore, the buyer's right to comfort, security, safety, choice in accordance with the promised conditions, as well as true, clear, and honest information must be placed as an important part of the protection of the SHMSRS.

The legal certainty of the product purchased by the consumer includes the certainty that the apartment unit being marketed not only has certain physical specifications, but also a legal status that can be accounted for. If the developer markets the apartment without explaining that the shared land has HGB status, that the HGB has a certain period of time remaining, or that the HGB is above the HPL which requires the approval of the HPL holder for an extension, then the information received by the consumer becomes incomplete. These conditions may give rise to the basis for a claim for compensation, cancellation of agreements, or resolution of consumer disputes according to the nature of the violation that occurred.

Preventive protection is carried out by ensuring that all land status information is included in marketing materials, brochures, PPJB, notary deeds, and handover documents. Repressive protection is carried out through consumer complaints, mediation, civil lawsuits, applications for cancellation of adverse clauses, lawsuits for unlawful acts, or legal remedies against administrative decisions that cause losses to SHMSRS holders.

Developers' Obligations in Revealing the Status of Shared Land

Developers are required to disclose complete information on the status of shared land from the marketing stage. The minimum information that needs to be provided includes the number and type of land certificate, land rights holder, HGB status on state land or HPL, the remaining HGB period, the basis of the legal relationship with the HPL holder if any, the renewal or renewal plan, the imposition of fees to the owner, and the legal risk if the extension or renewal is rejected.

This obligation is in line with Government Regulation Number 13 of 2021 which regulates the implementation of flats and the separation mechanism to the issuance of proof of ownership of flats. This obligation is also in line with Government Regulation Number 12 of 2021 which regulates marketing information and the certainty of land rights in the process of selling houses. Thus, the disclosure of land status should not only be done in general, but must be concrete, written, and verifiable so that consumers can make conscious and rational decisions.

Lessons from Case Approaches and Legal Comparisons

The Mangga Dua Court Apartment dispute shows that conflicts regarding HGB above HPL can lead to widespread uncertainty for unit owners. The main lesson from the case is the importance of separating responsibilities between developers, HPL holders, managers, PPPSRS, and the government. The owner of the unit who buys in good faith must not be the party who bears the entire consequences of a failure of transparency or administrative failure that is beyond his control.

In leasehold systems in some countries, the limitation of the term of land rights is usually offset by clear rules regarding the validity period, renewal, compensation, or transition of rights. Indonesia can learn that the ownership of apartments on land for a certain period of time must be equipped with norms that guarantee information disclosure, predictability of updates, and protection for unit owners when the underlying land rights expire.

The Role of Notaries in Preventive and Repressive Legal Protection

Notaries have a strategic position as a public official who makes authentic deeds and provides legal counseling. Based on the Law on the Notary Department, notaries are authorized to make authentic deeds regarding legal acts desired by the parties as long as they are not exempted by laws and regulations. In flats transactions, the authority must be exercised with the principle of prudence, especially when the transaction object is related to the HGB that is time-consuming.

Preventive protection by a notary can be carried out through checking the legality of the common land, verification of the developer's documents, explanation of the HGB period, inclusion of the developer's responsibility clause, the mechanism for managing the extension of the HGB, the sharing of costs, and compensation if the renewal is rejected. The clause is important to transform complex legal information into clear rights and obligations for the parties.

Repressive protection arises when a notary deed is used as evidence in a dispute. An authentic deed can prove the existence of a legal relationship, the developer's promise, the obligations that have been agreed, and the good faith of the buyer. Thus, notaries are not only the makers of documents, but also part of the legal protection system for consumers of flats.

The Urgency of Reform of Flats Regulations

This study found that the regulatory gap regarding the consequences of the rejection of the renewal of the HGB on shared land needs to be answered through regulatory reform. Regulations need to explicitly determine the position of SHMSRS holders when the HGB ends, the stages of protection before the HGB ends, the obligations of developers and PPPSRS, the role of land offices, the obligations of HPL holders, and a fast and effective dispute resolution mechanism.

Reform also needs to regulate fair compensation if unit owners lose economic benefits due to the rejection of HGB renewal through no fault of their own. The compensation mechanism can be sourced from developer liability, PPPSRS reserve funds, insurance schemes, or other forms regulated in laws and regulations. Without compensation arrangements, the principles of legal certainty and consumer protection are difficult to realize effectively.

CONCLUSION

The refusal to extend or renew the HGB of the shared land creates legal uncertainty for the SHMSRS holders because the SHMSRS is closely related to the existence of the land rights underlying the building of the flats. Nonetheless, the termination of the HGB should not be understood to automatically remove the legal rights and interests of the unit owner who has acquired the SHMSRS through lawful legal procedures and in good faith. The relevant legal basis needs to be read in an integrated manner, namely the 1945 Constitution of the Republic of Indonesia, the UUPA, the Flats Law, the Consumer Protection Law, Law Number 6 of 2023, Government Regulation Number 12 of 2021, Government Regulation Number 13 of 2021, and Government Regulation Number 18 of 2021. The series of rules shows that the legal certainty of SHMSRS holders is not only related to land registration, but also information transparency, certainty of land status, consumer protection, and the responsibility of development actors.

Legal protection needs to be provided through preventive and repressive mechanisms. Preventive protection includes the obligation of developers to provide true, clear, and written information on the status of the land; verification by a notary and PPAT; the inclusion of protection clauses in PPJB; and government supervision. Repressive protection includes mediation, consumer complaints, civil lawsuits, testing administrative decisions, and fair compensation if the unit owner is harmed. The case approach through the Mangga Dua Court Apartment dispute shows that the HGB problem above HPL can have a wide impact on unit owners. Therefore, flats regulations need to be strengthened with special provisions regarding the legal consequences of the rejection of HGB renewal, the transition mechanism of rights, the responsibility of developers and PPPSRS, as well as consumer protection of SHMSRS holders.

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Mohammad Ilham Riyadi, Hafiz Akbar, and Edrick Edwardina Effendy jointly contributed to the conceptualization of the study, collection and analysis of legal materials, interpretation of the findings, and preparation of the manuscript. All authors reviewed and approved the final version of the manuscript and are accountable for its content.

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