CONSTITUTIONAL COURT
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION
FOR CASE NUMBER 198/PUU-XXIII/2025

Concerning

Utilization of Condominiums for Non-Residential Functions

Petitioner	**:**	**PT Pasaraya International Hedonisarana represented by Medina as President Director**
Type of Case	**:**	Judicial review of Law Number 20 of 2011 concerning Condominiums (Law 20/2011) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
Subject Matter	**:**	Article 50 of Law 20/2011 is deemed to be conditionally contrary to Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution
Verdict	**:**	1. To grant the Petitioner's petition in part; 2. To declare Article 50 of Law Number 20 of 2011 concerning Condominiums (State Gazette of the Republic of Indonesia of 2011 Number 108, Supplement to the State Gazette of the Republic of Indonesia Number 5252) conditionally unconstitutional and does not have binding legal force if it is not interpreted as "the use of condominiums for non-residential purposes shall be regulated by law no later than 2 (two) years from the date of the pronouncement of the Decision *a quo*;" 3. To order the publication of this Decision in the State Gazette of the Republic of Indonesia as appropriate; 4. To dismiss the remainder of the Petitioner's petition.
Date of Decision	**:**	Monday, January 19, 2026

Overview of Decision :

The Petitioner is a private legal entity engaged in property development. The Petitioner argued that its constitutional rights have been impaired by the enactment of Article 50 of Law 20/2011 because the provision regulates only residential and mixed-use functions, thereby excluding condominiums with non-residential functions, including those developed by the Petitioner. As a consequence, buildings with non-residential functions lack a legal basis, thereby creating a legal vacuum and resulting in a situation contrary to Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

With respect to the Court's authority, because the Petitioner petitioned for a judicial review of the statutory norms *in casu* Article 50 of Law 20/2011 against 1945 Constitution of the Republic of Indonesia, the Court has the authority to hear the petition *a quo*.

With respect to legal standing, the Petitioner was able to describe the alleged constitutional loss that has a causal relationship (*causal verband*) with the enactment of the statutory norms being reviewed, if the petition is granted, the alleged constitutional loss as described will no longer occur or will not occur. Therefore, regardless of whether the unconstitutionality issue of the norms being petitioned for review is proven or not, the Court is of the opinion that the Petitioner has the legal standing to act as a Petitioner in the petition *a quo*.

With respect to the Petitioner's arguments, in the Constitutional Court Decision Number 62/PUU-XX/2022, the Court considered, in essence, that Article 50 of Law 20/2011 is consistent with the mandate of Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia because one of the reasons for replacing Law Number 16 of 1985 with Law Number 20 of 2011 was to fulfill the public's need for decent housing, particularly for low-income and middle-income communities [*vide* General Elucidation of Law Number 20 of 2011]. Accordingly, Law 20/2011 is intended to promote the availability of condominiums for residential purposes and to accommodate mixed-use condominiums in order to support the needs of the residents thereof. In that Decision, although the Court held that the norms of Article 50 of Law Number 20 of 2011 are not contrary to the Constitution, in particular Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, the Court also emphasized that the failure of the statutory framework to regulate the use of condominiums for non-residential purposes, such as condotels, has created a legal vacuum with the potential to give rise to legal uncertainty regarding citizens' rights of ownership and use of such condotels. In this regard, Article 50 of Law Number 20 of 2011 and its Elucidation accommodate only residential and mixed-use condominiums, the latter being a combination of residential and non-residential functions, however, the Elucidation does not cover condominiums with exclusively non-residential functions, as referred to by the Petitioner.

With respect to the above issue, it is a fact that buildings used for business premises, shopping centers, retail shops, offices, and industrial purposes, although not intended for residential use, possess the same characteristics as residential or mixed-use condominiums in that they adopt the concept of shared ownership (horizontal property rights), a modern civil law concept developed to meet the needs of ownership of multi-story buildings. This joint ownership gives rise to individual rights (over the respective units), as well as collective rights (over the common areas, common objects, and common land). Accordingly, such ownership also requires the preparation and approval of a strata subdivision plan, namely a legal process through which the competent authority approves a document containing the delineation and description of each condominium unit, together with the common areas, common objects, and common land. This document consists of detailed drawings and descriptions, including the proportional comparison values, and must be approved by the regent or governor, as applicable within their respective jurisdictions, which is consistent with Article 25 paragraph (1) of Law Number 20 of 2011, which states that "In constructing condominiums, the developer shall separate the building into individual units, common areas, common objects, and common land." In light of these facts, a legal vacuum exists because Law Number 20 of 2011 cannot serve as the legal basis for approving the land title documents of condominiums used for non-residential purposes. The absence of regulation *a quo* has created a legal vacuum with the potential to give rise to a number of legal issues.

This situation is likely to recur and may result in constitutional losses arising from the absence of clear regulations governing the use of condominiums for non-residential purposes, notwithstanding that such buildings already exist and have developed as a form of commercial enterprise whose ownership rights must be legally recognized and protected. If this lack of regulation is left unresolved, it will continue to create a legal vacuum, resulting in harm not only to the individual rights of citizens but also to economic development. Therefore, the Court considers it necessary to reiterate the importance of establishing a legal framework capable of providing legal certainty with respect to the use of condominiums for non-residential purposes.

In this regard, according to the Court, the use of building units for non-residential purposes, such as condotels or other forms of commercial enterprises, is not consistent with the definition of condominiums under Law Number 20 of 2011, therefore, if the Court were to interpret Article 50 of Law Number 20 of 2011 by incorporating non-residential functions into its norms, as requested by the Petitioner, such an interpretation would instead create disharmony within the provisions of Law Number 20 of 2011. This is because the philosophical basis of Law Number 20 of 2011 places the principal function of condominiums as a "dwelling" or residence, while condominiums with non-residential functions is accommodated only in the form of mixed-use developments, namely a combination of residential and non-residential functions. However, as the Court has considered above, the absence of regulations governing the use of building units with non-residential functions, both under Law Number 20 of 2011 and under other laws and regulations, has the potential to give rise to even greater constitutional losses for citizens whose constitutional rights relate to the certainty of ownership and the use of such building units. Such a legal vacuum may also have an adverse impact on economic stability and development. Such constitutional losses and the adverse consequences of this legal vacuum will continue to arise for as long as there are no laws and regulations specifically governing this matter. Therefore, through the Decision *a quo*, the Court urges the lawmakers to promptly enact legislation that could serve as the legal basis for the regulation of condominiums with non-residential functions. Because, even after more than three years after the pronouncement of Constitutional Court Decision Number 62/PUU-XX/2022, there has been no discernible follow-up to the legal considerations set out in the Decision *a quo*.

The Court understands that the legal vacuum concerning the use of condominiums with "non-residential" functions is not solely attributable to the absence of the phrase "non-residential" in Article 50 of Law Number 20 of 2011, but also to the absence of any provisions in Law Number 20 of 2011 that specifically regulate the procedures for, and the legal requirements governing, the use of condominiums with non-residential functions. The absence of such provisions has created a legal vacuum, resulting in a violation of the principle of fair legal certainty with respect to the rights arising from the use of condominiums with "non-residential" functions. Therefore, the Court is of the opinion that this legal vacuum must be addressed by assigning a separate constitutional meaning to the norms of Article 50 of Law Number 20 of 2011 with respect to the use of condominiums with "non-residential" functions In addition, the norms of Article 50 of Law Number 20 of 2011 may serve as the legal basis for the use of condominiums with non-residential functions, pending the enactment of a separate law or the amendment of Law Number 20 of 2011 by introducing a separate Chapter governing "the use of condominiums with non-residential functions". Accordingly, Article 50 of Law Number 20 of 2011 must be interpreted to mean that "the use of condominiums with non-residential functions shall be regulated by law." This interpretation is adopted to reaffirm the Court's position as set out in the Constitutional Court Decision Number 62/PUU-XX/2022. Such a reaffirmation is necessary because the current absence of regulation has created legal uncertainty, resulting in inconsistency between the norms of Article 50 of Law Number 20 of 2011 and Article 1 paragraph (3) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Therefore, in order to ensure fair legal certainty and, at the same time, to prevent adverse economic consequences, the lawmakers must enact legislation governing the use of building units constituting condominiums with "non-residential" functions no later than 2 (two) years from the date of the pronouncement of the Decision *a quo*. In this regard, the Court considers a period of 2 (two) years to be sufficient for the amendment of Law Number 20 of 2011 or the enactment of new legislation to meet the legal need for regulating condominiums with "non-residential" functions.

Pursuant to the legal considerations set out above, the Petitioner's argument concerning the norm of Article 50 of Law Number 20 of 2011, which allegedly gives rise to legal uncertainty and therefore is contrary to the guarantee of fair legal certainty under the 1945 Constitution of the Republic of Indonesia because it does not recognize condominiums with "non-residential" functions as one of the permitted uses of condominiums, is legally

justifiable in part.

Accordingly, the Court subsequently passes down a decision which verdict states:

1. To grant the Petitioner's petition in part;
2. To declare Article 50 of Law Number 20 of 2011 concerning Apartments (State Gazette of the Republic of Indonesia of 2011 Number 108, Supplement to the State Gazette of the Republic of Indonesia Number 5252) conditionally unconstitutional and does not have binding legal force if it is not interpreted as "the use of apartments for non-residential purposes shall be regulated by law no later than 2 (two) years from the date of the pronouncement of the Decision *a quo*;"
3. To order this decision to be published in the State Gazette of the Republic of Indonesia as appropriate;
4. To dismiss the remainder of the Petitioner's petition.