

## **Termination Analysis of Cooperation Agreement between Bekasi City Government & PT. Kitita Alami Propertindo on the Revitalization & Management of Pondok Gede Market**

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**Abstract.** *The termination of the cooperation agreement between the Bekasi City Government and PT. Kitita Alami Propertindo regarding the revitalization and management of Pondok Gede Market has attracted attention because it involves public interest and complex regulations. This study aims to legally analyze the aspects underlying the unilateral termination of the agreement by the Bekasi City Government due to default by PT. Kitita Alami Propertindo. The research method used is a normative legal approach, which examines the legal aspects of the cooperation agreement with a focus on default and legal procedures for terminating the agreement. The results of the study indicate that the agreement can be unilaterally terminated by the government based on default, but there are legal risks that need to be considered, especially in fulfilling the rights of third parties. In conclusion, the termination of the cooperation agreement in this legal context has implications for both parties, and requires the application of strict rules in resolving contract disputes.*

**Keywords:** *Agreement; Contract; Partnership; Revitalization, Termination.*

### **1. INTRODUCTION**

In recent years, legal frameworks and partnerships between government entities and private companies have become increasingly significant globally. The shift toward public-private partnerships (PPP) aims to bridge the gap in infrastructure development and resource management, providing public services more effectively<sup>1</sup>. These partnerships, often operating under Build-Operate-Transfer (BOT) schemes, are critical in urban development projects like market revitalization, which play a vital role in urban economic and social stability<sup>2</sup>. However, global reports indicate that issues such

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<sup>1</sup> Caiyun Cui and others (2018), 'Review of Studies on the Public-Private Partnerships (PPP) for Infrastructure Projects', *International Journal of Project Management*, 36.5, p. 773-94.

<sup>2</sup> Mohan Phuyal (2020), 'Legal Analysis of Build Operate and Transfer (BOT) Projects in Indian Public Infrastructure', *Phuyal, M. Legal Analysis of Build Operate and Transfer (BOT) Projects in Indian Public Infrastructure. International Journal of Engineering Research & Technology (IJERT)*, 2020, p. 1320-30.

as contractual breaches and delays are pervasive, challenging the long-term success of such collaborations<sup>3</sup>. In many instances, disputes arise over management roles, financial obligations, and adherence to contractual stipulations. The escalation of these disputes not only strains partnerships but also has implications for public resources and stakeholder trust<sup>4</sup>. Hence, an in-depth legal analysis of such contractual agreements and termination processes is essential.

Various factors can lead to conflicts in PPP agreements, particularly in long-term, high-stakes contracts. Key factors include misaligned interests, ambiguous legal provisions, financial delinquency, and failure to adhere to operational standards. In the case of the partnership between the Government of Bekasi and PT Kitita Alami Propertindo (PT KAP), a delay in fulfilling financial contributions and tax obligations was observed, alongside discrepancies in project specifications and unauthorized subcontracting. These factors represent potential breaches of contract, often known as "wanprestasi" in Indonesian law, which refers to a party's failure to meet contractual commitments.<sup>5</sup>

The breach of contract or "default" not only affects the parties involved but also has broader socio-economic impacts. For example, delays in project execution can limit public access to improved market facilities, hinder economic activities, and reduce government revenue from local taxes. Additionally, any unilateral termination of the agreement could lead to prolonged legal disputes, financial losses, and damage to the public-private relationship, which might discourage future investments in urban development. The Bekasi case, thus, reflects the larger impact of mismanaged public-private partnerships on urban policy and economic resilience.

In the present study, two main variables are considered: the legal grounds for contract termination and the implications of contractual obligations. Contract termination, particularly when done unilaterally by the government, poses critical legal and ethical questions regarding due process and justice for the private party. On the other hand, the obligations outlined in a BOT agreement are crucial in ensuring accountability and transparency. These agreements, supported by regulations like Indonesia's Presidential Regulation No. 38/2015, emphasize the necessity for clear delineation of responsibilities, financial accountability, and adherence to specified development goals.

This research explores the legal implications of unilateral termination within a PPP framework, a topic with limited exploration in the context of Indonesian urban infrastructure projects. Unlike previous studies, which primarily focused on contractual

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<sup>3</sup> Nurul Komari, *Etika Kerja: Kunci Sukses Karir Dan Kehidupan* (Takaza Innovatix Labs, 2024).

<sup>4</sup> Carter B Casady and David Baxter, 'Pandemics, Public-Private Partnerships (PPPs), and Force Majeure| COVID-19 Expectations and Implications', *Construction Management and Economics*, 38.12 (2020), p. 1077–85.

<sup>5</sup> Kania Nova Ramadhani, 'The Social and Political Impact of Breach of Contract in Motor Vehicle Lease Agreements Based on the Indonesian Civil Code', *Ampera: A Research Journal on Politics and Islamic Civilization*, 5.03 (2024), p. 172–82.

imbalance and investor rights, this study provides a novel approach by examining termination clauses and the consequences of "default" specifically in the case of Bekasi's market revitalization project. This study further contributes to understanding the BOT scheme's application under Indonesian law, emphasizing both legal and practical aspects of resolving contractual conflicts.

The necessity for this research stems from the growing reliance on PPPs in Indonesia's urban development, where local governments increasingly collaborate with private entities. Given the significant socio-economic role of markets, such as the Pondok Gede Market, the termination of the Bekasi-PT KAP agreement serves as a crucial learning case. Addressing these legal concerns is urgent to prevent the recurrence of similar issues, enhance the robustness of future contracts, and secure the interests of both the government and the public.

This study is expected to offer both theoretical and practical benefits. Theoretically, it will contribute to the existing body of knowledge on PPP law in Indonesia, specifically regarding termination clauses and "wanprestasi." Practically, it will serve as a reference for policymakers in drafting more comprehensive PPP agreements and help legal practitioners handle similar cases in urban project management.

## **2. RESEARCH METHODS**

This research employs a qualitative approach with a descriptive method. It is based on normative legal research, focusing on examining legal principles and statutory frameworks related to contractual agreements and obligations<sup>6</sup>. This type of research is appropriate to explore how legal regulations and contractual interpretations apply to cases of public-private partnerships (PPP) in Indonesia, particularly those involving BOT (Build-Operate-Transfer) or BGS (Bangun Guna Serah) schemes in urban infrastructure management.<sup>7</sup> The study was conducted within the legal jurisdiction of Bekasi City, focusing on the case between the Government of Bekasi and PT Kitita Alami Propertindo, which centers on the termination of a partnership for market revitalization. This location serves as a representative case of PPPs in urban development, especially those involving complex legal and regulatory aspects. The research was conducted over a specified time frame to capture both historical and contemporary perspectives on the dispute and subsequent legal actions taken by the government.

## **3. RESULTS AND DISCUSSION**

### **Research Study Profile**

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<sup>6</sup> Mohammad Omar Mohammad Alhejaili, 'Integrating Smart Contracts into the Legal Framework of Saudi Arabia', *International Journal of Law and Management*, 2024.

<sup>7</sup> Pangi Suryadi and Faisal Santiago, 'Economic Value as Legal Considerations for The Utilization of State-Owned', in *Proceedings of the First Multidiscipline International Conference, MIC 2021, October 30 2021, Jakarta, Indonesia*, 2022.

This study focuses on the legal analysis of the unilateral termination of the cooperation agreement between the Bekasi City Government and PT Kitita Alami Propertindo in the revitalization and management project of Pondok Gede Market. Based on the cooperation agreement, the Bekasi City Government acts as a party that facilitates land and contract requirements, while PT Kitita Alami Propertindo acts as the manager and implementer of the market revitalization. This relationship takes place in a build-operate-transfer (BOT) agreement scheme, which regulates various rights and obligations of both parties.

### **Specific Description of the Variables Studied**

The main variables studied in this study are the legal aspects of unilateral contract termination and its implications for the rights and obligations of both parties<sup>8</sup>. The main focus is the analysis of the default committed by PT Kitita Alami Propertindo, including failure to pay taxes, late fines, and deviations from building specifications. PT KAP is suspected of changing specifications and not fulfilling administrative requirements, such as transferring management to a third party without the approval of the Bekasi City Government.

### **Amount of Data Used**

The data in this study include primary legal materials in the form of relevant laws and regulations, such as the Civil Code, Presidential Regulation No. 38 of 2015, and agreements between the two parties, including additional agreements or addendums produced during the implementation of the cooperation<sup>9</sup>. In addition, secondary legal materials used include academic literature, journals, and scientific articles that provide theoretical and empirical perspectives on the resolution of contract disputes in the BGS/BOT scheme. Other data sources are court decisions, such as the Bekasi District Court Decision, which outlines the legal basis for unilateral contract termination.

### **Findings in Answering Research**

#### **Legal Aspects of Default**

Based on the research findings, PT Kitita Alami Propertindo has committed a number of acts that meet the criteria for breach of contract, as stated in the Civil Code. These acts include failure to pay contributions and tax fines and non-compliance with building specifications. These findings indicate that PT KAP has not carried out its contractual obligations in accordance with the agreement, which has triggered a legal response from the Bekasi City Government. This breach of contract provides a legal basis for the government to consider unilateral termination of the contract as a legitimate action.

#### **Building Use Rights (HGB) and Management Rights (HP)**

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<sup>8</sup> Dian Alifya, 'Analisis Hukum Penerapan Pemutusan Hubungan Kerja Akibat Kesalahan Berat Pekerja Paska Putusan Mk No. 012/Puu-1/2003 Tanggal 28 Oktober 2004 (Studi Putusan Pengadilan Hubungan Industrial Pada PN Medan)', *Kumpulan Karya Ilmiah Mahasiswa Fakultas Sosial Sains*, 1.01 (2019).

<sup>9</sup> Alifya.

Analysis of the legal status of the building also shows that PT KAP transferred the management rights (HPL) to building use rights (HGB) and then pledged it to a third party without written consent from the Bekasi City Government. This step raises legal implications because the violation of the provisions of HGB over HPL not only deviates from the agreement but also involves administrative violations that can harm the government as the land owner.

### **Unilateral Contract Termination Process**

The contract termination process carried out by the Bekasi City Government was based on a series of warnings given to PT KAP. Three warning letters were issued as a mediation effort before the final decision to terminate the contract was taken. This is in accordance with the provisions stipulated in Indonesian law, where the government has the right to terminate the contract when the partner does not fulfill its obligations. This process highlights the importance of a dispute resolution mechanism in BGS/BOT contracts to ensure transparency and fairness for both parties.

### **Dispute Resolution and Legal Implications**

The Bekasi City Government took legal action to demand fulfillment of PT KAP's obligations or compensation in accordance with the losses incurred. Unilateral termination of the contract has significant implications, especially because it relates to the public interest and management of the market which is a government asset<sup>10</sup>. This study found that, although there is a right to terminate the contract, this process must be carried out carefully to avoid potential counterclaims from private parties who feel aggrieved.

## **Discussion**

### **Problems in Public Private Partnership (PPP)**

Cooperation between the government and the private sector, such as that which occurred in the management of Pondok Gede Market, aims to accelerate infrastructure development and improve the quality of public services<sup>11</sup>. However, in practice, this cooperation is often faced with various legal problems, such as default and breach of contract. In the case of the Bekasi City Government and PT Kitita Alami Propertindo (PT KAP), default occurred due to PT KAP's inability to fulfill several contractual obligations, including payment of outstanding taxes and differences in the specifications of the buildings realized.

This problem arises as part of the complexity inherent in KPBU projects, especially those using the Build-Operate-Transfer (BOT) scheme, where the private sector has a

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<sup>10</sup> Pablo T Spiller, 'An Institutional Theory of Public Contracts: Regulatory Implications', in *Regulation, Deregulation, Reregulation* (Edward Elgar Publishing, 2009).

<sup>11</sup> Radies Kusprihanto Purbo, Christine Smith, and Robert J Bianchi, 'Local Government and Public-Private Partnerships: Experiencing Multilevel Governance Issues in Indonesian Water Supply Provision', *International Journal of Water Resources Development*, 36.1 (2020), p. 27-49.

significant role in project management <sup>12</sup>. As a result, the government faces a dilemma when a violation occurs, namely considering whether to terminate the contract or continue with greater risks.

### **Causes of Problems and Impacts of Identified Factors**

Some of the main causes of default committed by PT KAP in this case were failure to fulfill tax and contribution payment obligations. In addition, there were problems related to differences in building specifications that did not comply with the initial agreement. These factors show deficiencies in supervision and obstacles in the administrative process at the government and private levels.

The impact of this default includes financial losses for the Bekasi City Government and affects market services to the community. When building specifications do not match the initial plan, the expected quality of public services is not achieved. This condition also shows the importance of a more effective monitoring mechanism in KPBU projects.

### **Solutions and Recommendations**

Based on the analysis of research findings, solutions that can be applied to overcome this default problem include revising the clauses in the KPBU agreement that are more detailed regarding sanctions and responsibilities of each party. It is important for the government to include clearer provisions regarding supervision and control in the contract so that the private sector is fully responsible for fulfilling obligations. This can also include a collection mechanism and incentives that are adjusted to project performance.

In addition, the involvement of the court or arbitration in resolving disputes is an important step to uphold legal certainty and protect the rights of the government as the injured party. This approach is in accordance with the theory of legal positivism which prioritizes legal certainty based on written rules.

### **Urgency of Developing KPBU Cooperation**

This case shows that there is an urgency for the government to strengthen the legal framework in the PPP agreement. By improving regulations related to the responsibilities and rights of each party, it is hoped that harmonious and productive cooperation can be created. The government as a party providing infrastructure needs to ensure that all legal procedures in the management of state or regional assets are followed strictly and transparently.

### **Comparison with Previous Research**

In the context of previous research, a study by <sup>13</sup> on the imbalance of the parties' positions in BOT contracts found that several clauses in the agreement were not

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<sup>12</sup> Nadia Wijanarko and Zhen Peter Ye, 'Transaction Cost Economics Perspectives on Indonesian Public-Private Partnership (PPP): Case Study on Umbulan Water Supply System PPP', *Available at SSRN 4391643*, 2023.

detailed regarding the rights and obligations of the parties involved, resulting in legal uncertainty. While this study deepens the issue in the context of the market by considering specific aspects of the Pondok Gede Market case, as well as the implications of default by PT KAP.

#### 4. CONCLUSION

This study aims to analyze the legal aspects of the termination of the cooperation contract between the Bekasi City Government and PT Kitita Alami Propertindo, especially in the context of default that occurred in the Pasar Pondok Gede revitalization project. The main findings indicate that PT KAP's non-compliance with contractual obligations—including tax arrears and deviations in development specifications—underlies the government's decision to unilaterally terminate the contract. The contribution of this study to the legal literature and PPP management lies in emphasizing the importance of clear provisions in contract clauses, especially regarding the responsibility for managing public assets and the sanction mechanism for default, which have not been studied in depth in the context of market revitalization projects in Indonesia. This study provides valuable insights into the need for tighter government oversight and more detailed agreements in BOT/BGS schemes to minimize the risk of future conflicts. The limitation of this study lies in the scope of the analysis that focuses on the specific case of Pasar Pondok Gede, which may have different conditions from similar projects in other regions. Therefore, further studies can consider comparative analysis between PPP projects in various regions or sectors to obtain a more holistic picture of the effectiveness and challenges in implementing BOT/BGS schemes in Indonesia. Future studies are also recommended to explore alternative dispute resolution mechanisms that can speed up the legal process and reduce the administrative burden on local governments.

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<sup>13</sup> MUHAMMAD DZIKIRULLAH H NOHO and others, 'Comparative Analysis of Abortion Arrangement on the Draft Criminal Code (Ruu Kuhp) and Law of the Republic of Indonesia Number 36 of 2009 Concerning Health.', *International Journal of Pharmaceutical Research (09752366)*, 13.1 (2021).

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