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DEFAULT BY LAND BUYERS THROUGH BINDING SALE AND PURCHASE AGREEMENT WITH INSTALLMENTS

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Abstract. *Land constitutes a fundamental necessity for society, particularly in Indonesia. Transactions involving land sale and purchase through installment mechanisms are formalized through a Binding Sale and Purchase Agreement PPJB. The implementation of buying and selling land in installments through PPJB occurs with the process of parties coming to the Notary's office to make PPJB and In PPJB land in installments will be mentioned on the payment deed in several stages and carried out on what date. In the event that sanctions for late payment will be regulated according to the agreement of the parties. This research examines default in such agreements and proposes a typology of total and partial breach to determine proportional legal consequences. Default may occur in different form. Partial breach allows renegotiation, while total breach justifies termination. It is recommended that PPJB agreements explicitly regulate types of breach and legal consequences. Default in PPJB must be analyzed proportionally. The typology proposed provides a more balanced legal framework.*

Keywords: *Agreement; Default; Installment; Legal Framework; Typology Propose.*

1. Introduction

Payments in buying and selling are known to have 2 (two) types of payment methods, namely payment in full and payment in installments or installments with an agreed time. Often what causes problems in buying and selling land is the way to pay in installments, namely in the fulfillment of achievements. Payment in installments in the sale and purchase of land is agreed upon by the seller and the buyer by determining the payment time and the number of times the payment until it reaches the repayment stage. The agreement of the parties that determines the method of payment by way of installments will be made a land sale and purchase agreement which is usually made in an authentic deed by the authorized official for it (Hanapiah & Wahyuningsih, 2018; Kaniyawati, 2025).

Default or known as breach of promise, which is the obligation of the debtor to fulfill an achievement, if in carrying out the obligation is not affected by circumstances, then the debtor is considered to have broken the promise. Default is a situation where the debtor does not fulfill his promise or does not fulfill it as he should and all of it can be blamed on him. The problem of default that often occurs in the land sale and purchase bond agreement with installments is the non-fulfillment of rights and obligations between the seller and the buyer, such as at the stages of payment made by the buyer (Putri, 2017).

In contractual transaction, installment payment systems often generate legal disputes related to the fulfillment of obligations. This study examines default in PPJB agreements. State of the art is Previous studies focus on legal consequences such as cancellation and compensation but treat default as a uniform concept. There is a lack of systematic classification distinguishing levels of breach, particulary between total and partial breach as research gap. This study introduces a typological framework distinguishing total breach and partial breach to ensure proportional legal consequences. That is the novelty in this study. The legal problems that will be analyzed in this study are: first, how is the default in the land sale and purchase agreement, the second, default in the land sale and purchase binding agreement with instalments, third, legal consequences default in the land sale and purchase agreement with instalments.

2. Research Methods

This research uses an empirical juridical approach with statutory, conceptual, and sociological analysis. Data collection techniques in empirical juridical law research there are 3 (three) techniques used, either individually or separately or used together at the same time. The three techniques are interviews, questionnaires and observations. The data collection techniques used in writing this law are interview techniques with informants and respondents and literature study techniques. Interview technique is a conversation between two or more people whose questions are asked by the researcher to the subject or a group of research subjects to be answered where the questions asked are around the problems raised in the thesis and the answers obtained are summarized to answer the problems in this thesis. Literature study techniques are conducting studies on books, literature and scientific writings (Kanyawati, 2025). The data analysis used is qualitative analysis, in research that is descriptive and uses analysis, carried out guided by the theoretical foundation to be in accordance with the facts in the field. The purpose of this qualitative analysis is to explain the reality that occurs in the field by collecting complete data (Husni & Salim, 2021).

3. Results and Discussion

3.1. Default in The Land Sale and Purchase Agreement

The agreement on the sale and purchase of land objects has many obstacles in the implementation of payments made in installments (Hidayati & Erma, 2023). The Covid-19 pandemic in Indonesia resulted in many people losing their jobs and experiencing Termination of Employment (*Pemutusan Hubungan Kerja*/PHK), in this situation, many people no longer get income. Therefore, it is not uncommon for the implementation of payments to be hampered in the practice of buying and selling, resulting in defaults. The implementation of transactions carried out as the implementation of the sale and purchase agreement, in practice is very diverse such as the implementation of the sale and purchase agreement is carried out properly by the parties, so that the parties can take advantage of the agreement that has been carried out (Guzman, 2005).

However, there are also many irresponsible parties with various motives used in making the sale and purchase agreement, with various reasons/excuses conveyed so that the agreed sale and purchase agreement is not implemented/kept. Any legally made agreement will be binding as a law for those who have made it. Thus, the parties to the agreement are bound to each other by the promises they make (Encarnacion, 2008). Usually an agreement is reciprocal, except in agreements that are unilateral (*eenzijdig overeenkomst*) such as the matters stipulated in Article 132 of the Civil Code (wife who relinquishes her rights to the property of the union), Article 875 of the Civil Code (regarding wills) and Article 1084 of the Civil Code (receipt of inheritance) (Ma & Wu, 2026).

Agreements, both unilateral and bipartial, are legal acts, each act that causes legal consequences, either in the form of the arising of rights or in the form of the disappearance of rights (Encarnacion, 2008). A one-sided legal act that only requires a will or statement of will from one party is enough to cause legal consequences. Between the two parties, both the seller and the buyer are given rights and obligations reciprocity. The buyer is obliged to pay the price of the agreed goods and has the right to receive the goods that have been paid, on the other hand, the seller is obliged to hand over the goods that have been sold and has the right to receive payment money from the transactions made. Thus, the right for one party is an obligation for the other, while the obligation for one party becomes the right for the other party (Rahman et al., 2025).

A party who feels aggrieved by another party in an agreement has the right to sue the other party who does not carry out the contents of the agreement through a judge or through legal channels. A legally made agreement cannot be voided by one party alone. An agreement can only be cancelled if there is agreement from both parties to the agreement. Apart from the legal sanctions imposed on the party who commits the default, from an ethical point of view, an agreement should be implemented in good faith. A person makes a promise to another person, then does not carry out what he promises, then in addition to violating the rules of the law, he also violates the rules of morality and religious rules, because any religion in this world teaches people to keep the promises they have made to others (Subekti et.al., 2020).

The Civil Code clearly distinguishes between an agreement born from a treaty and an agreement born from a law. When seen, the result of an agreement born based on an agreement is indeed desired by the parties, because indeed the agreement is based on an agreement, namely the conformity of the will between the parties who make the agreement. Meanwhile, the legal consequences of an agreement born from the law may not be desired by the parties, but the legal relationship and its legal consequences are determined by the law.

The determination of a default in the agreement if a buyer is mentioned and is in a state of default, if he in performing the performance of the performance in the agreement has been negligent, so that he is "late" from the specified time schedule or in carrying out an achievement not according to "proper or proper". Determining the elements of negligence and forgetfulness is not easy to prove, because it is often not promised exactly when a party is required to perform the promised achievements (Halimah & Indrawati, 2025).

The agreement is agreed upon if there is a violation, then a default lawsuit can be filed, because there is a contractual relationship between the party who caused the loss and the party who suffered the loss (Sullivan et al., 1991). If there is no contractual relationship between the party who caused the loss and the party who suffered the loss, then a lawsuit for unlawful acts can be filed (Acoronia et al., 2024). The difference between a default lawsuit and an unlawful act lawsuit, the purpose of a default lawsuit is to put the plaintiff to the position if he would have been in had the contract been performed. Thus, the compensation is in the form of an expected loss of profit or called expectation loss or winstderving. Meanwhile, the purpose of an unlawful act lawsuit is to place the plaintiff's position to the original state before the unlawful act occurred. So that the compensation given is a real loss or reliance *loss* (Mirshekari & Abdi, 2023).

The easiest way to establish a person to commit a default is in an agreement that aims not to commit an act. If the person does so means that he is violating the agreement, he can be said to have committed a default (Auliandi & Simanjuntak, 2020). A buyer is considered to have defaulted, if in an agreement the grace period for the performance of performance is determined, then the buyer is in a state of default after the specified grace period has passed (Malintang, 2021). However, according to Article 1238 of the Civil Code, it requires a reprimand from the court (summons) so that it can be said that the debtor is in default

3.2. Default in the Sale and Purchase Binding Agreement with installments

The form of buying and selling with installment payments is not known in the Civil Code, this is due to the need in practice. Therefore, the legal basis of buying and selling in installments is the legal provisions of the agreement (*Verbintenissen Rechts*). Parties who carry out legal acts of buying and selling with installment payments can make an agreement on the basis of an agreement. The purpose of making the agreement is to regulate the rights and obligations that must be carried out by each party, as well as to avoid misunderstandings. Such agreements can be made in writing or oral. But, for the purpose of proof, what is agreed by the parties should be written in a deed of agreement. (Zakia, 2020).

Default is an act of not fulfilling or neglecting to carry out obligations as specified in the agreement made between creditors and debtors. In the context of a sale and purchase agreement, default (negligence or forgetfulness) may occur in several forms, namely when a party does not perform what he is obligated to do, performs the promised obligation but not in the manner agreed upon, carries out the obligation later than the time stipulated in the agreement, or performs an act that is expressly prohibited under the agreement.

A default that occurs in an installment sale and purchase binding agreement is the non-fulfillment of obligations between the parties who made the agreement. The following are the types of defaults contained in the binding sale and purchase agreement, namely:

1. Total *breachts* means that the implementation of the agreement is impossible to implement. What is meant by an agreement that is impossible to implement is that the buyer is completely unable or unable to perform his achievements that have been signed at the beginning of the agreement made with the seller because there are financial problems that occur on the buyer's side, so that the buyer cannot perform his achievements at all, due to death, total physical disability so that he can no longer work like blindness, Total paralysis, mental disorders.
2. Partial *breachts* mean that the implementation of the agreement is still possible to be implemented. What is meant by the implementation of the agreement that is still possible to be implemented is the cessation of the buyer's obligations which is temporary because the buyer stops working for something but is not in a condition of total physical disability, then the seller can give a grace period to the buyer to fulfill his achievements when the buyer already has money or work again with a grace agreement that has been agreed upon by both parties with a new agreement that is not Apart from the old agreement which results in the occurrence of performance obligations on the buyer's side.

The two types of defaults contained in the binding sale and purchase agreement are those that can affect the change of the agreement and the cancellation of the agreement (Silado & Syailendra, 2023).

3.3. Legal Consequences of the Default in the Land Sale and Purchase Agreement with Installments

Legal consequences are the result of an action taken to obtain an outcome desired by the perpetrator and regulated by law. The actions taken are legal actions, namely actions taken to obtain an outcome that is required by law. It is even clearer that legal consequences are all the consequences that occur from all legal acts performed by legal subjects against legal objects or other consequences caused by certain events by the law in question have been determined or considered as legal consequences.

As a result of this default, it will cause legal consequences for the debtor and losses for the creditor (the receivable party), so that it can be collected or sued through the Court. Therefore, the law considers it necessary to make a determination if the debtor is in default. In relation to the determination of this default, article 1238 of the Civil Code specifies as follows "The debtor is negligent based on the strength of the obligation itself, that is, if this agreement results in the debtor must be considered negligent because of the passage of the specified time". This default has significant legal consequences on behalf of the buyer (Dalimunthe, 2017).

The grace period for the implementation of achievement fulfillment is determined by the provisions of Article 1238 of the Civil Code. "The debtor is considered negligent with the passage of the specified time".

If the deadline for the implementation of achievement fulfillment is not determined, then a written warning is required either in the form of a warrant or a similar deed. This warrant or deed is a somatie (warning) and can be used as evidence of default on the part of the buyer if a lawsuit arises in court from the seller.

The legal consequences for buyers who have committed defaults are the following penalties or sanctions:

1. The buyer is required to pay compensation for the losses suffered by the seller (article 1243 of the Civil Code). These terms apply to all engagements. Paying Compensation in question is the money that has been paid by the buyer to the seller in the purchase and purchase of installments that have been paid as a sign that the initial completion will be forfeited if the buyer no longer completes the payment at the next stage.
2. In a reciprocal (bilateral) agreement, a default by one party gives the other party the right to cancel or terminate the agreement through a judge (article 1266 of the Civil Code).
3. The risk shifts to the buyer from the moment of default (article 1237 paragraph (2) of the Civil Code). This provision only applies to an agreement to provide something.
4. Pay the cost of the case if it is filed before the judge article 181 paragraph 1 (HIR) of the Herziene Inland Regulation. Buyers who are proven to have committed default are certainly defeated in the case. These terms apply to all engagements.
5. Fulfilling the agreement if it can still be done, or canceling the agreement is accompanied by the payment of compensation (article 1267 of the Civil Code). This applies to all alliances.

According to Notary (PPAT/*Pejabat Pembuat Akta Tanah*) Ulce Irithrina Sudjateruna, SH, in Badung Regency said that the legal consequences of Default in the case of installment land purchase and purchase agreements are: in general in accordance with the Binding Sale and Purchase Agreement made by the Parties, the Sale and Purchase becomes null and void by the buyer and the money that has been paid by the buyer to the seller sometimes becomes the right and property of the seller entirely which is considered as compensation for the cancellation of the Sale and Purchase There are times when 50% (fifty percent) belongs to the seller and another 50% (fifty percent) is returned by the seller to the buyer at the time of the cancellation of the sale immediately and at once. There are times when the agreement continues for land that has already been paid by the buyer to the seller. In such an event, the land will first be divided into 2 (two) parts, namely 1 (one) part will be followed by a Deed of Sale and Purchase and immediately re-registered at the local land office, while for the other 1 part will be returned by the buyer to the seller. What is returned is land that cannot be paid by the buyer to the seller (default).

For this, it must be expressly specified in the sale and purchase agreement. Since the Indonesian state was hit by the Covid-19 pandemic, the Indonesian economy has experienced a downturn, one of which is resulting in the buying and selling of land in Bali. What is described above is only limited to the legal consequences that arise if one of the parties (buyer) does not carry out the payment obligation properly. In principle, the legal consequences are returned to the content of the agreement made by the parties. In fact, during the Covid-19 pandemic that took place in Indonesia in 2019 until now, there was a land Binding Sale and Purchase Agreement (*Perjanjian Pengikatan Jual Beli*/PPJB) in canceled installments. In 2019 there were 4 (four) PPJBs and then 2 (two) canceled, in 2020 there were 7 (seven) PPJBs and then 3 (three) canceled and in 2021 there were 5 (five) PPJBs and then 1 (one) canceled (Interview with Notary/PPAT Ulce Irithrina Sudjateruna, SH, at Jl. Bypass Ngurah Rai No.1, Kuta, Badung Regency).

According to Mrs. Notary/PPAT Luh Putu Astriani, SH., M.Kn in Badung Regency, the consequences of the default law in the land PPJB in installments are: she must pay compensation suffered by the seller or the party who has the right to receive the achievement. The basic principle is that default requires reimbursement of reimbursement that includes costs, losses and interest. In addition to the claim for compensation, there is a possibility of a claim for cancellation of the agreement. However, Article 1249 provides an exception, that is, unless there is an agreement between the parties on the amount of compensation that must be paid in the event of a defaulting buyer. In such a case, regardless of the actual amount of damages to the seller must be given the amount as agreed or according to Article 1249 i.e. "no amount shall be given more or less than that amount" such an undertaking in an agreement is called a "promise of indemnity/fine" or "*schadevergoedings/boete beding*". 2 (two) PPJB acts (The interview was conducted on January 31, 2022, at the Notary Office with Notary/PPAT Luh Putu Astriani, Sh., M.Kn, located at Andika Graha, Jalan Raya Dalung, North Kuta District, Badung Regency).

Analyzing the results of the interview with the notary above, the process of the sale and purchase bond agreement with installments carried out in front of the Notary is carried out by both parties, by conveying the will of both parties to the Notary and the Notary will pour the will into the deed (Utari, 2021). The facts obtained are that the will outlined in the deed contains the object of sale and purchase, the price set, the method of payment as well as fines and sanctions if one of the parties commits a default.

To get a comparison of the process of implementing the sale and purchase bond agreement with installments, an interview was also conducted with Mrs. Notary/PPAT Nurhayati, SH., M.Kn in Denpasar City, namely: Basically, PPJB land in installments is carried out by the parties with the reasons and agreement of each party. Installments are gradual payments made by the buyer to the seller which contain sanctions in the future in the event of late payment. The process is that when the parties come to the Notary's office to make a PPJB and convey the will of each party, the Notary will receive a certificate of the object of sale and purchase to be checked first at the authorized Land Office, regarding the validity of the certificate, whether there are dependent rights, and the correctness of the land area. Once everything is not a problem at the Land Office, then PPJB can be implemented. In PPJB, land installments will be mentioned on the payment deed in several stages and carried out every day. In the event that sanctions for late payment will be regulated according to the agreement of the parties. (interview conducted on January 19, 2022, at the Kertawijaya Shop, Jalan Diponegoro No. 18, Dauh Puri). Default may occur in different form. Partial breach allows renegotiation, while total breach justifies termination. It is recommended that PPJB agreements explicitly regulate types of breach and legal consequences.

4. Conclusion

A buyer is considered to have defaulted, if in an agreement the grace period for the performance of performance is determined, then the buyer is in a state of default after the specified grace period has passed. A default that occurs in an installment sale and purchase binding agreement is the non-fulfillment of obligations between the parties who made the agreement. As a result of this default, it will cause legal consequences for the debtor and losses for the creditor (the receivable party), so that it can be collected or sued through the Court. As a legal result of a default that occurs because a person (buyer) is negligent in carrying out his obligations, the agreement made by the parties can be canceled or canceled by itself (null and void) or the deed can be amended so that the agreement can be continued and completed with a Deed of Sale and Purchase. Default in PPJB must be analyzed proportionally. The typology proposed provides a more balanced legal framework.

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