

The Misappropriation of Public Infrastructure, Facilities, and Utilities (PSU) Land for Private Residential Ownership: An Indonesian Land Law Analysis of Sigura Gura Residence Housing Estate in Malang City

Shang Dyah Pitaloka¹⁾, Herlindah²⁾ & Supriyadi³⁾

¹⁾Faculty of Law, Universitas Brawijaya, Indonesia, E-mail: shangdpitaloka@student.ub.ac.id

²⁾Faculty of Law, Universitas Brawijaya, Indonesia, E-mail: herlindah@ub.ac.id

³⁾Faculty of Law, Universitas Brawijaya, Indonesia, E-mail: supriyadi@ub.ac.id

Abstract. *This study aims to analyze the factors underlying the transfer of infrastructure, facilities, and public utilities (PSU) land into residential ownership and to examine its juridical and social consequences for residents of Sigura Gura Residence Housing in Malang City. This research employs an empirical legal method with a juridical-sociological approach through statutory, conceptual, and case approaches. The findings reveal that the transfer of PSU land was caused by weak governmental supervision, inadequate land administration, developers' economic orientation, and delays in the handover of PSU. The conversion of a mushola into residential property resulted in juridical consequences in the form of violations of the social function of land principle and inconsistencies with the approved housing site plan. Socially, the practice led to the loss of worship facilities and communal interaction spaces, thereby affecting residents' rights to a proper and sustainable living environment.*

Keywords: *Housing; Land Law; PSU; Social Function.*

1. Introduction

The provision of housing fundamentally constitutes part of the State's responsibility to guarantee the fulfillment of the fundamental right of every citizen to obtain adequate, safe, and sustainable housing. The right to housing encompasses not only access to residential accommodation but also the availability of a healthy, well-planned, and properly managed living environment supported by adequate public infrastructure, facilities, and utilities. (Dandy Himawan Sutanto; 2021). From a constitutional perspective, the right to adequate housing is expressly guaranteed under Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which provides that every person has the right to live in physical and spiritual prosperity, to reside, and to enjoy a good and healthy environment. This constitutional mandate demonstrates that the State bears an affirmative obligation to ensure that housing development is implemented in a manner that prioritizes the broader social interests of society. Consequently, public infrastructure, facilities, and utilities (*Prasarana, Sarana, dan Utilitas Umum*—hereinafter PSU) constitute an inseparable component of residential development, as they represent essential elements that determine the quality of life of residential communities. (Gavin Samir; 2016).

Indonesian land law, which is principally governed by Law No. 5 of 1960 concerning the Basic Agrarian Principles, recognizes land as a strategic natural resource whose control is vested in the State and exercised for the greatest prosperity of the people. The doctrine of State control over land, as stipulated in Article 2 paragraph (1) of the Basic Agrarian Law, authorizes the State to regulate land use, land designation, and the legal relationships between legal subjects and land in order to ensure the realization of social justice. Within the framework of Indonesia's national agrarian law, land possesses a social function that requires its utilization to serve the interests of society as a whole. Accordingly, every form of land utilization must maintain a balance between private interests and the public interest. The principle of the social function of land rights, embodied in Article 6 of the Basic Agrarian Law, affirms that every land right inherently carries social obligations, and therefore its exercise must not prejudice the interests of the wider community. This principle provides the normative foundation for regulating land allocated for public infrastructure, facilities, and utilities (PSU) within residential developments, as such land represents a tangible manifestation of the social function of land dedicated to the collective interests of residents within housing estates. (Zidney Ilma; 2025).

In the course of Indonesia's national development, the housing sector has experienced significant expansion in response to rapid population growth, urbanization, and the increasing demand for residential accommodation. The continuing expansion of urban areas has stimulated substantial growth within the property industry and accelerated residential development across numerous regions of Indonesia, including the City of Malang. Housing development extends beyond the construction of residential units and necessarily includes the provision of environmental facilities that support the social and economic activities of local communities. Accordingly, Law No. 1 of 2011 concerning Housing and Settlement Areas requires every housing development to be equipped with adequate public infrastructure, facilities, and utilities. Within residential areas, PSU performs essential functions directly related to the provision of basic public services, including neighborhood roads, drainage systems, green open spaces, places of worship, public parks, playgrounds, and various other social facilities.

The obligation imposed upon housing developers to provide and subsequently transfer PSU to local governments constitutes a legal mechanism designed to safeguard the public's rights over communal facilities within residential areas. (Adimagistra, Tiasa, and Bitta Pigawati; 2016). Normatively, this obligation is regulated under several legislative instruments, including Law No. 1 of 2011 concerning Housing and Settlement Areas, Government Regulation Number 14 of 2016 concerning the Implementation of Housing and Settlement Areas, and Minister of Home Affairs Regulation Number 9 of 2009 concerning Guidelines for the Transfer of Public Infrastructure, Facilities, and Utilities in Housing and Settlement Areas. Collectively, these regulations require developers to transfer completed PSU to the relevant local government no later than one year after the expiration of the maintenance period. Such transfer enables local governments to undertake the management, maintenance, and sustainable development of public facilities as part of their public service obligations to the community.

2. Research Methods

This study employs an empirical legal research method using a socio-legal approach. Empirical legal research examines law as it operates in practice, focusing on how legal

norms are implemented and function within society. (Mukti Fajar ND and Yulianto Achmad; 2010). Accordingly, this approach is intended to analyze the discrepancy between the law as it ought to be (*das sollen*) and the law as it exists in practice (*das sein*) concerning the conversion of land designated for public infrastructure, facilities, and utilities into privately owned residential property within the Sigura Gura Residence Housing Estate in Malang City.

The research adopts three complementary approaches: the statutory approach, the conceptual approach, and the case approach. (Muhaimin; 2021). The statutory approach is employed to examine the legal framework governing land rights, the social function of land, the obligation to provide and transfer public infrastructure, facilities, and utilities, as well as the authority of local governments and the National Land Agency in managing public facilities. The legal framework examined includes Law No. 5 of 1960 concerning the Basic Agrarian Principles, Law No. 1 of 2011 concerning Housing and Settlement Areas, Government Regulation Number 14 of 2016 concerning the Administration of Housing and Settlement Areas, Minister of Home Affairs Regulation Number 9 of 2009 concerning Guidelines for the Handover of Housing and Settlement Infrastructure, Facilities, and Utilities, and Malang City Regional Regulation Number 2 of 2013 concerning Public Infrastructure, Facilities, and Utilities. The conceptual approach is utilized to analyze the concepts of the social function of land rights, legal system theory, the theory of governmental authority, and the principles of good governance as the theoretical framework for explaining deviations in the utilization of PSU land. Meanwhile, the case approach focuses on an in-depth examination of the conversion of PSU land into residential property within the Sigura Gura Residence Housing Estate, which serves as the principal object of this research.

The research was conducted in Malang City, particularly within the Sigura Gura Residence Housing Estate, where the alleged conversion of PSU land into private residential ownership has occurred. This location was selected because of indications that the designated function of public facilities had been altered, thereby giving rise to legal issues relating to land administration and adversely affecting the rights of residents within the housing estate. In addition, data were collected from relevant governmental institutions, including the Malang City Office of Public Works, Spatial Planning, Housing and Settlement Areas (DPUPRKP), the Malang City Land Office, and other institutions involved in the management, supervision, and administration of PSU land. Field research was conducted to obtain empirical data concerning the process of PSU land conversion, the implementation of governmental supervision, the issuance of land title certificates, and the legal responsibilities of the parties involved.

The research utilizes both primary and secondary data. Primary data were obtained directly through field interviews with individuals closely associated with the research object, including officials of the Malang City DPUPRKP, officials of the Malang City Land Office, Notaries/Land Deed Officials (PPAT), housing developers, and residents of the Sigura Gura Residence Housing Estate. Semi-structured, in-depth interviews were conducted to obtain information regarding the management of PSU land, land administration procedures, governmental supervision, and the legal as well as social impacts resulting from the conversion of PSU land into residential ownership. Secondary data were collected through library research and consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutes and regulations, court decisions, and official documents concerning PSU and land law. Secondary legal

materials comprise legal textbooks, scholarly journal articles, previous research findings, scientific publications, and expert legal opinions. (Peter Mahmud Marzuki; 2019). Tertiary legal materials include legal dictionaries, encyclopedias, and other reference sources that facilitate a comprehensive understanding of the research subject. (Amiruddin and Zainal Asikin; 2019).

Data collection was carried out through both library research and field research. Library research involved an examination of statutory regulations, legal literature, scholarly journals, land administration documents, housing site plans, and other relevant documents relating to the legal status and management of PSU land. Field research consisted of semi-structured interviews and direct observation of the research site. Interviews were conducted to obtain empirical information relevant to the research questions, while direct observation was undertaken to examine the actual condition of the housing estate, the availability of public facilities, and the extent of the functional conversion of PSU land. These data collection techniques were intended to provide a comprehensive understanding of the practice of PSU land conversion and its legal implications within the Indonesian land law system.

The collected data were analyzed qualitatively using a descriptive-analytical method. Both empirical findings and documentary evidence obtained from library research were systematically examined to explain the relationship between the applicable legal framework and its implementation in practice. The analysis involved classifying the data according to the research issues and interpreting them in light of the theory of the social function of land rights, legal system theory, and the fundamental principles of Indonesian land law and administrative law. Through this analytical framework, the study seeks to identify the factors contributing to the conversion of PSU land into privately owned residential property, examine the legal implications arising from such practices, and formulate policy recommendations together with supervisory mechanisms for local governments to ensure the protection of the existence and intended function of public infrastructure, facilities, and utilities for the benefit of residents within housing estates.

3. Results and Discussion

3.1. Factors Underlying the Practice of Transferring Public Infrastructure, Facilities, and Utilities (PSU) Land into Private Residential Ownership at Sigura-Gura Residence Housing Estate, Malang City: An Indonesian Land Law Perspective

The practice of transferring land designated for Public Infrastructure, Facilities, and Utilities into private residential ownership at the Sigura-Gura Residence Housing Estate in Malang City constitutes a deviation in land utilization that is inconsistent with the principle of the social function of land rights under the Indonesian land law system. Land that has been designated as public facilities cannot legally be treated as private property subject to unrestricted transfer to individuals, as such land possesses a juridical public function intended to ensure the continuity of essential public services for residents within the housing estate. The existence of PSU within a residential development represents a direct consequence of the developer's statutory obligation to establish a residential environment that is decent, healthy, safe, and sustainable, as stipulated in Law No. 1 of 2011 concerning Housing and Settlement Areas. The Law expressly provides that a housing estate constitutes a collection of residential units that must be supported by

adequate public infrastructure, facilities, and utilities as integral components of an integrated settlement system.

PSU constitutes a legal instrument designed to safeguard the public's right to an adequate and healthy living environment. (Muhammad Aziz Nurhakim and Endang Pandamdari; 2018). Accordingly, every developer is legally obligated to provide and subsequently transfer the ownership and management of PSU to the regional government upon completion of the housing development, thereby ensuring its sustainable maintenance and management for the benefit of the public. In the context of the Sigura-Gura Residence Housing Estate in Malang City, the conversion of PSU land into privately owned residential property demonstrates a deviation from the objectives of housing administration as established under Indonesian land law and housing legislation. Such deviation is attributable to various interrelated normative, administrative, institutional, economic, and social factors.

One of the principal factors contributing to the conversion of PSU land into residential property is the weakness of the supervisory system governing PSU administration prior to the enactment of Regional Regulation of Malang City Number 2 of 2013 concerning Public Infrastructure, Facilities, and Utilities. Based on interviews conducted with the Department of Public Works, Spatial Planning, Housing, and Residential Areas (DPUPRPKP) of Malang City, it was found that prior to 2013 the transfer of PSU from developers to the regional government had not become a governmental priority and was not carried out intensively, particularly with respect to small- and medium-scale housing developments. Consequently, numerous housing estates developed without adequate governmental supervision regarding developers' compliance with their obligation to provide and transfer PSU in accordance with the approved site plans. This lack of effective supervision created opportunities for developers to alter the designated function of PSU land into residential housing without meaningful governmental control.

The inadequacy of such supervision reflects the suboptimal implementation of governmental control and oversight functions as mandated within the Indonesian system of regional governance. (Nuryatiningsih Pusporini, Purwanita Setijanti, and Sarah Cahyadini; 2022). Supervision of PSU constitutes an integral component of the regional government's responsibility to ensure that housing development is implemented consistently with spatial planning policies and the broader public interest. (Vorry Rahmad, Kurnia Warman, and Jean Elvardi; 2023). When supervisory mechanisms are ineffective, developers acquire opportunities to manipulate the designated function of land that has previously been allocated as public facilities.

Another contributing factor concerns changes in the institutional structure and coordination mechanism governing PSU administration in Malang City, which resulted in uncertainty regarding supervisory responsibilities during a particular administrative period. Interview findings indicate that prior to 2016, the secretariat and coordination functions relating to PSU transfer were administered by the Regional Development Planning Agency (Bappeda). However, beginning in 2017, these responsibilities were transferred to the Department of Public Works. This institutional restructuring created an administrative transition period during which supervision over PSU was not implemented effectively. Viewed through the perspective of Lawrence M. Friedman's Legal System Theory, this condition demonstrates deficiencies within the legal structure,

namely that the institutions responsible for implementing the law lacked an effective coordination mechanism for carrying out supervisory functions relating to PSU.

The absence of integrated inter-agency coordination further increased the likelihood of deviations in the designated function of PSU land. In principle, supervision of PSU involves multiple governmental institutions, including the Department of Public Works, Spatial Planning, Housing, and Residential Areas (DPUPRKP), the National Land Agency (BPN), district offices (*kecamatan*), village administrations (*kelurahan*), as well as Notaries and Land Deed Officials (*PPAT*). This institutional arrangement is reflected in the organizational structure of the PSU Verification Team of Malang City, which comprises representatives from various regional governmental agencies and the National Land Agency. Nevertheless, coordination among these institutions has not functioned optimally, thereby creating administrative disharmony and weakening oversight over the legality of PSU land utilization.

Apart from institutional deficiencies, the conversion of Public Infrastructure, Facilities, and Utilities into private residential ownership is also attributable to weaknesses in the juridical and physical verification processes within Indonesia's land administration system. Under the Indonesian land law framework, the National Land Agency is vested with the authority to examine the legal status of land before issuing land title certificates. Nevertheless, the case of the Sigura-Gura Residence Housing Estate reveals that certificates of ownership (*Hak Milik*) were issued over parcels of land that, according to the approved site plan, had been designated as public facilities. This circumstance demonstrates deficiencies in the verification process concerning the legal status and designated function of the land prior to the issuance of land rights. From the perspective of Indonesian land law, land allocated as PSU cannot legally be granted as privately owned land because it has been designated for public purposes and is required to be transferred to the regional government as a public asset.

Pursuant to the approved site plan, the site plan itself constitutes the principal legal instrument determining the lawful utilization of land within a housing development. According to the site plan of the Sigura-Gura Residence Housing Estate, a specific parcel of land was allocated for the construction of a musholla (Islamic prayer facility) as part of the public facilities provided within the residential complex. However, the designated area was subsequently converted into a residential building that was sold to private purchasers, as evidenced by the Certificate of Ownership (*Sertifikat Hak Milik*—SHM) No. 05297.

This situation clearly demonstrates a deviation from the spatial planning policy and site development plan that had previously been approved by the regional government. The alteration of land use without governmental approval constitutes a violation of the principles of legal order, orderly spatial utilization, and legal certainty governing land use administration.

Economic considerations constitute one of the most dominant factors driving the conversion of PSU land into residential property. Within the property development industry, land possesses substantial economic value, thereby encouraging developers to maximize profits by increasing the number of residential units available for sale. Land originally allocated for public infrastructure and facilities is therefore perceived as an economic asset capable of being converted into additional housing units to generate

greater financial returns. Such circumstances reflect a commercial orientation that disregards both the social function of land and the collective interests of residents within the housing estate.

From the perspective of Indonesian agrarian law, this practice is inconsistent with Article 6 of Law No. 5 of 1960, which expressly stipulates that every land right carries a social function. Accordingly, the utilization of land may not be directed solely toward economic gain but must also serve the broader interests of society as a whole. Consequently, the conversion of PSU land into privately owned residential property represents not merely an administrative irregularity but also a substantive departure from one of the fundamental principles of Indonesia's national land law.

In addition to the developers' economic motives, the relatively weak legal culture among members of the public has also contributed to the occurrence of PSU conversion. Many purchasers acquired residential houses constructed on PSU land without fully understanding the legal status of the land they purchased. Homebuyers generally focused on acquiring physical ownership of the house without undertaking legal due diligence regarding the approved site plan or the status of the land as a designated public facility. Such limited legal awareness has made irregularities involving PSU difficult to detect at an early stage.

Viewed through Lawrence M. Friedman's theory of legal culture, the low level of public legal awareness significantly diminishes the effectiveness of legal norms (Suriani Bt. Tolo et al; 2024), notwithstanding the existence of statutory provisions explicitly prohibiting the transfer or conversion of PSU land. The effectiveness of law depends not only upon the existence of legal rules and institutions but also upon the willingness and capacity of society to understand, respect, and comply with those legal norms.

Another contributing factor concerns the ineffective supervision of developers' statutory obligation to transfer PSU to the regional government. Regulation of the Minister of Home Affairs Number 9 of 2009 expressly requires developers to transfer public infrastructure, facilities, and utilities to the regional government no later than one year after the expiration of the maintenance period. In practice, however, many developers fail to comply with this obligation promptly, resulting in public facility land remaining under the developers' control for an extended period. Such prolonged control creates opportunities for developers to alter the designated function of PSU land or transfer rights over such land before its formal handover to the regional government.

The practice of housing project takeovers constitutes one of the most influential factors contributing to the unlawful conversion of Public Infrastructure, Facilities, and Utilities into privately owned residential property. Based on the Project Takeover Agreement, it was established that the development project of the Sigura-Gura Residence Housing Estate had been transferred to another developer. Within the housing development sector, changes in project ownership frequently give rise to administrative and legal issues concerning the continuity of developers' obligations to provide and transfer PSU. Successor developers tend to prioritize the completion of the commercial aspects of the project rather than fulfilling statutory obligations relating to public facilities. Consequently, PSU becomes increasingly vulnerable to unauthorized changes in land use due to the absence of effective supervision ensuring the continuity of obligations between the original developer and the successor developer.

The improper conversion of PSU is further attributable to the inadequate implementation of the principle of the social function of land, which constitutes one of the fundamental principles of Indonesian agrarian law. Conceptually, the doctrine of the social function of land requires that the collective interests of society prevail over individual interests in the utilization of land. This principle recognizes that ownership rights over land are not absolute but are subject to limitations intended to safeguard the public interest. However, in the present case, the public function of PSU has gradually deteriorated into an object of private commercial transactions. Such a paradigm shift reflects the subordination of public interests to private economic considerations, thereby undermining the philosophical foundation of the Indonesian land law system.

Another contributing factor lies in the lack of an integrated regulatory framework governing PSU administration. Legal provisions concerning PSU are dispersed across numerous legislative and regulatory instruments, including the Basic Agrarian Law (Law No. 5 of 1960), Law No. 1 of 2011 concerning Housing and Settlement Areas, the Regulation of the Minister of Home Affairs concerning Public Infrastructure, Facilities, and Utilities, as well as the Regional Regulations of Malang City. This regulatory fragmentation has resulted in inconsistencies in supervision, implementation, and law enforcement relating to PSU administration. The absence of harmonized legal provisions has consequently weakened the effectiveness of governmental control over the preservation and management of public facilities within residential developments.

The absence of an integrated digital information system connecting approved site plans, land administration records, and regional government databases has further contributed to ineffective supervision over changes in the designated function of PSU land. (Meiky Susanto; 2020). The lack of interoperability among these administrative systems makes it difficult for relevant authorities to verify whether applications for land registration or transfers of title are consistent with the approved spatial planning documents and site plans. This administrative deficiency creates opportunities for irregularities in land registration and facilitates the unlawful conversion of public facilities into privately owned property.

The conversion of PSU into residential housing has generated significant adverse consequences for the residents of the housing estate. The loss of public facilities, particularly the musholla, has diminished the quality of the residential environment and reduced the availability of essential public services within the housing complex. In the specific case of the Sigura-Gura Residence Housing Estate, the conversion of land originally designated for a musholla into a privately owned residential building has created social and psychological concerns among local residents, the majority of whom adhere to the Islamic faith. The elimination of the designated place of worship has not only deprived the community of an essential public facility but has also affected their spiritual well-being and sense of communal harmony.

These circumstances demonstrate that PSU serves functions extending beyond merely supporting the physical infrastructure of residential developments. Public facilities also perform important social, cultural, and religious functions that contribute to the realization of a decent, orderly, and sustainable residential environment. Accordingly, the unlawful conversion of PSU should not be regarded solely as a violation of land administration procedures but also as an infringement upon the collective rights of the

community to enjoy public facilities guaranteed under Indonesia's legal framework governing housing, spatial planning, and land administration.

3.2. The Juridical and Social Consequences of the Conversion of Public Infrastructure, Facilities, and Utilities (PSU) into Private Residential Property Ownership on the Fulfillment of the Rights and Interests of Residents in Sigura Gura Residence Housing Estate, Malang City

The conversion of public infrastructure, facilities, and utilities, particularly a neighborhood prayer room (*mushola*), into privately owned residential property within the Sigura Gura Residence Housing Estate in Malang City gives rise to significant juridical and social consequences concerning the fulfillment of the rights of housing residents. The *mushola*, which had been designated in the approved site plan as a social facility and an integral component of the PSU, possesses the legal status of a public facility intended for the collective benefit of the residential community. Consequently, its conversion into private ownership constitutes a violation of the social function of land as stipulated in Article 6 of Law No. 5 of 1960 concerning the Basic Agrarian Principles, which affirms that all land rights inherently carry a social function. This principle requires that the utilization and management of land prioritize broader public interests while maintaining the spatial balance and sustainability of the surrounding environment. (Ilma).

The provision of PSU, including places of worship, constitutes a statutory obligation imposed upon housing developers to ensure the establishment of residential environments that are decent, healthy, harmonious, and sustainable. This obligation is explicitly recognized under Law No. 1 of 2011 concerning Housing and Settlement Areas, which defines housing as a collection of residential units equipped with public infrastructure, facilities, and utilities forming an integral component of the settlement system. Accordingly, the *mushola*, as a social facility, represents an essential element in realizing the constitutional rights of residents to enjoy an adequate living environment, including the opportunity to practice religious observance and engage in social interaction within their residential community. The conversion of the *mushola* into a residential house effectively eliminates a public service facility that should be collectively accessible to all residents.

The conversion of the *mushola* into residential property constitutes a deviation from the site plan that had previously been approved by the local government. The site plan functions as a legally binding administrative instrument requiring developers to implement housing development in accordance with the designated spatial allocation. Within the approved site plan of Sigura Gura Residence, public facilities and social facilities constitute inseparable components of the planned spatial arrangement and are therefore required to be maintained in accordance with their designated functions. Consequently, any alteration of the *mushola's* designated use without prior approval from the local government violates the principles of legal certainty and orderly spatial planning. From the perspective of administrative law, such conduct may be categorized as a misuse of spatial utilization that is inconsistent with the objectives governing the administration of housing and settlement development.

A further juridical consequence concerns the legal status of the land occupied by the *mushola* as part of the PSU, which is legally required to be transferred to the local

government. Pursuant to the Minister of Home Affairs Regulation Number 9 of 2009 concerning Guidelines for the Transfer of Housing and Settlement Infrastructure, Facilities, and Utilities, developers are obligated to transfer PSU assets to the local government to ensure their sustainable management and utilization for public benefit. Accordingly, the conversion of the *mushola* land into private ownership fundamentally contradicts the principles of land administration law because land designated as a public asset is transformed into private property. Such conversion may also create administrative defects in the issuance of land rights where land certificates are granted over parcels that, according to the approved site plan, are designated as public or social facilities.

The conversion of the *mushola* into residential property gives rise to the legal liability of the housing developer. Developers bear a legal obligation to provide public and social facilities in accordance with the approved site plan. By converting the *mushola* into a residential unit, the developer has effectively breached its administrative obligations regarding the provision of PSU. From the perspective of consumer protection law, such conduct may constitute a violation of the rights of homebuyers, who purchased residential properties based upon the legitimate expectation that the public and social facilities represented in promotional materials and the approved site plan would be provided. Consequently, residents possess the legal right to seek restoration of the social facilities that have been unlawfully eliminated.

Another juridical implication concerns the potential emergence of land disputes and administrative litigation. The conversion of the *mushola* into residential property may trigger conflicts between residents, developers, and local government authorities regarding the legality of the utilization of PSU land. Under administrative law, residents may challenge governmental actions or omissions where public authorities are deemed to have failed in exercising adequate supervision over the existence and preservation of social facilities within housing developments. Moreover, where certificates of ownership have already been issued over land designated for the *mushola*, disputes may arise concerning both the validity of the certificates and the legality of the underlying administrative acts upon which their issuance was based.

From a social perspective, the conversion of the *mushola* into residential housing directly results in the loss of a place of worship and an important communal space for interaction among residents. Within a residential neighborhood, the *mushola* serves not only as a venue for religious observance but also as a center for social interaction, communication, and the cultivation of community solidarity. Its disappearance deprives residents of a shared communal space that has traditionally functioned as an important medium for strengthening social cohesion and neighborhood relations.

The conversion also adversely affects residents' rights to enjoy a decent and harmonious living environment. Within the framework of contemporary housing development, social facilities constitute one of the principal indicators of settlement quality. The elimination of the *mushola* diminishes the quality of social services available within the housing estate, thereby reducing the comfort and welfare of its residents. Such circumstances are inconsistent with the fundamental principles governing housing administration under Article 2 of Law No. 1 of 2011 concerning Housing and Settlement Areas, which emphasizes welfare, orderliness, sustainability, and balance in residential development.

The loss of the *mushola* creates unequal access to religious facilities, particularly for elderly residents, children, and individuals with limited mobility. In everyday practice, neighborhood prayer rooms play a strategic role by providing accessible and nearby facilities for religious worship. Once the *mushola* is converted into a private residence, residents are compelled to seek alternative places of worship located farther away, thereby reducing the accessibility of both social and religious services within the residential environment. This situation demonstrates that the unlawful conversion of PSU substantially affects the overall quality of community life.

The elimination of the *mushola* may be regarded as a reduction in the community's effective access to the enjoyment of religious life within their residential environment. Although the State does not directly prohibit religious worship, permitting the disappearance of religious social facilities within housing developments reflects an inadequate level of governmental protection of the social rights of residential communities. Accordingly, local governments bear the responsibility to ensure that social facilities designated in approved site plans are preserved and maintained in accordance with their original public functions.

The conversion of the *mushola* into residential property reflects weaknesses in governmental supervision and regulatory control over the management of PSU within housing developments. Under the institutional framework of the Malang City PSU Verification Team, oversight of public facilities involves multiple governmental institutions, including the Regional Public Works, Spatial Planning, Housing, and Settlement Office (DPUPRPKP), the National Land Agency (BPN), and other relevant local government authorities. The successful conversion of a designated *mushola* into privately owned residential property therefore indicates deficiencies in inter-agency coordination and demonstrates that the verification and monitoring system governing the utilization of PSU land has not been effectively implemented.

4. Conclusion

The conversion of land designated for public infrastructure, facilities, and utilities into private residential ownership within Sigura Gura Residence Housing Estate, Malang City, constitutes a form of land-use deviation that is fundamentally inconsistent with the social function of land rights as embodied in the Indonesian land law system. This practice has been driven by a combination of interrelated normative, administrative, institutional, and economic factors. Weak supervision by the local government over developers' obligations to provide and transfer PSU, changes in the institutional coordination mechanism governing PSU management, inadequate verification within the land administration system, and insufficient inter-agency coordination have collectively created opportunities for the unlawful conversion of PSU land into privately owned residential property. Furthermore, developers' commercial orientation, which treats land primarily as an economic commodity, has encouraged the misappropriation of public facilities in pursuit of greater financial gains. These circumstances demonstrate that the implementation of the social function of land, as stipulated in Article 6 of the Basic Agrarian Law, has not been effectively realized in housing development practices. The conversion of PSU land also illustrates a significant discrepancy between the legal norms (*das sollen*) and the empirical realities (*das sein*). From a normative perspective, the provision of PSU constitutes a mandatory legal obligation of housing developers, and such facilities must be preserved and subsequently transferred to the local government as public assets to

ensure the sustainable provision of essential services for residents within the housing estate. However, deficiencies in the land administration and supervisory systems have enabled land originally designated for public facilities to be converted into private residential property through administrative processes. This situation reflects systemic weaknesses in land governance and housing administration, particularly regarding the effectiveness of local government oversight, the implementation of land legality verification by the National Land Agency, and the enforcement of laws governing the utilization of PSU. Furthermore, the conversion of a mushola (Islamic prayer facility) from a designated PSU into a private residential house gives rise to profound legal consequences from the perspectives of both land law and administrative law. Such an act is inconsistent with the officially approved site plan, violates statutory provisions governing housing and residential area development, and contravenes the legal obligation requiring developers to transfer PSU to the local government as prescribed under the relevant legislative framework. In addition, the issuance of land rights over property legally designated as a public social facility may constitute an administrative defect within the land registration system and potentially give rise to legal disputes concerning both the validity of land certificates and the legal status of public facility land.

5. References

Journals:

- Adimagistra, Tiasa, and Bitta Pigawati. "Valuation of Infrastructure and Facility Provision in Puri Dinar Mas Housing Estate, Semarang." *Jurnal Pengembangan Kota* 4, no. 1 (2016). <https://doi.org/10.14710/jpk.4.1.58-66>.
- Dianasari, Awaliyah Nur. "The Obligation of Housing Development Legal Entities to Provide Places of Worship under the Regional Regulations of Boyolali Regency." *Jurnal Bedah Hukum* 5, no. 2 (2021): 106–24. <https://doi.org/10.36596/jbh.v5i2.584>.
- Ilma, Zidney. "Juridical Analysis and Sanctions in the Provision of Places of Worship within Housing Developments in Indonesia." *Jurnal Kajian Konstitusi* 5, no. 1 (2025): 77–103. <https://doi.org/https://doi.org/10.19184/j.kk.v5i1.53698>.
- Nurhakim, Muhammad Aziz, and Endang Pandamdari. "The Fulfillment of Housing Facilities and Utilities in Mutiara Puri Harmoni Rajeg Subsidized Housing, Tangerang, under Law No. 1 of 2011 on Housing and Settlement Areas." *Jurnal Hukum Adigama* 1, no. 1 (2018): 21–22. <https://doi.org/10.24912/ADIGAMA.V1I1.2152>.
- Nuryatiningsih Pusporini, Purwanita Setijanti, and Sarah Cahyadini. "He Concept of Small-Scale Housing Facility Provision Based on the Principles of Neighborhood Unit Planning and Walkability." *Tata Loka* 24, no. 1 (2022): 45–61. <https://doi.org/10.14710/TATALOKA.24.1.45-61>.
- Rahmad, Vorry, Kurnia Warman, and Jean Elvardi. "Transfer of Housing and Settlement Infrastructure, Facilities, and Utilities from Developers to Local Governments: A Study in Tanah Datar Regency." *Unes Law Review* 6, no. 1 (2023): 110–23. <https://doi.org/10.31933/unesrev.v6i1>.
- Samir, Gavin. "Developer Liability to Purchasers for Breach of Contract Concerning Housing Infrastructure, Facilities, and Public Utilities in the Implementation of Apartment Unit Sale and Purchase Binding Agreements." *Jurnal Perspektif* 24, no. 1 (2019): 44–55. <https://doi.org/https://doi.org/10.30742/perspektif.v24i1.675>.
- Susanto, Meiky. "Identification and Analysis of Risk Factors for the Failure of Public

Infrastructure and Facility Provision in Subsidized Housing in Indonesia." *Jurnal Infrastruktur* 6, no. 1 (2020): 25–37. <https://doi.org/10.35814/infrastruktur.v6i1.1274>.

Sutanto, Dandy Himawan. "Policies and Implementation of the Transfer of Housing Infrastructure, Facilities, and Public Utilities in Pamekasan Regency." *Jurnal Syntax Literate* 6, no. 2 (2021): 1490–1503. <https://doi.org/10.36418/syntax-literate.v6i2.5352>.

Tolo, Suriani Bt., La Ode Bariun, Majid Bone, Hijriani, Muh. Fitriadi, and La Ode Munawir. "Analysis of the Compliance of Facility Provision in Puri Khanissa Residence Housing Estate, Kolaka Regency, with Applicable Laws and Regulations." *Sultra Research of Law* 6, no. 1 (2024): 1–10. <https://doi.org/10.54297/surel.v6i1.5>.

Books:

Amiruddin, and Zainal Asikin. *Introduction to Legal Research Methods, 10th Ed.* Jakarta: Rajawali Pers, 2019.

Cahya Marzuqi, Fajar. "Developer Responsibility for Housing Development Plans Not Included in the Approved Site Plan." Pancasakti University Tegal, 2020.

Marzuki, Peter Mahmud. *Legal Research.* Jakarta: Kencana Prenada Media Group, 2019.

Muhaimin. *Legal Research Methods.* Mataram: Mataram University Press, 2020.

ND, Mukti Fajar, and Yulianto Achmad. *Normative Legal Research and Empirical Legal Research: A Dualistic Approach.* Yogyakarta: Pustaka Pelajar, 2010.

Regulation:

Law No. 5 of 1960 concerning the Basic Agrarian Principles, Law No. 1 of 2011 concerning Housing and Settlement Areas

Government Regulation Number 14 of 2016 concerning the Administration of Housing and Settlement Areas

Malang City Regional Regulation Number 2 of 2013 concerning Public Infrastructure, Facilities, and Utilities

Minister of Home Affairs Regulation Number 9 of 2009 concerning Guidelines for the Handover of Housing and Settlement Infrastructure, Facilities, and Utilities