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Legal Protection For Consumers In Property Purchase Transactions From Developers Through Notary Deeds/Ppat In Klaten Regency

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Abstract. *The rapid development of the housing sector in Indonesia has encouraged developers to implement a pre-project selling system, namely the sale of units before physical construction is completed, even though they often do not meet all licensing requirements, thus potentially causing losses for consumers in the form of construction delays, non-conformity of specifications, and unclear legal status of the land. This study aims to analyze legal protection for consumers through the role of Notaries and PPAT in the preparation of Sales and Purchase Agreements (PPJB) and Sales and Purchase Deeds (AJB) in order to realize legal certainty, justice, and protection of consumer rights in property transactions in Klaten Regency. The method used is a juridical-empirical approach to legislation and theory, using primary data obtained through interviews with Notaries/PPAT and secondary data in the form of laws and regulations, journals, and legal literature analyzed prescriptively. The results of the study indicate that the legal relationship between developers and consumers is contractual through the stages of SPR/SPP, PPJB, to AJB, while Notaries/PPAT play a role in guaranteeing the validity of the agreement and the transfer of rights. However, in pre-project selling practices, consumers are still in a weak position and are at risk of default by the developer, so preventive legal protection is needed through optimizing the role of Notaries/PPAT and repressively through cancellation of agreements and provision of compensation to restore consumer rights.*

Keywords: *Consumers; Developers; Legal; Notaries; Protection.*

1. Introduction

The continued growth of the housing sector in Indonesia has encouraged developers to implement a pre-project selling system, which involves marketing units before physical construction is completed as a strategy to attract consumer interest. However, this practice is often carried out before all permit requirements have been met, potentially causing losses to consumers. Therefore, laws and regulations, specifically Law Number 1 of 2011 concerning Housing and Residential Areas and Government Regulation Number 12 of 2021, stipulate that marketing and the creation of a Sales and Purchase Agreement (PPJB) can only be carried out after legal requirements have been met, such as certainty of land status, Building Construction Approval (PBG), the availability of infrastructure, facilities, and public utilities (PSU), and partial physical construction. Furthermore, after construction is completed and the applicable provisions are met, the transfer of rights is carried out through a Sales and Purchase Deed (AJB) before a Land Office (PPAT) as legal proof of ownership. Therefore, the presence of Notaries and Land Offices (PPAT) plays a crucial role in providing legal certainty and protection for consumers in property transactions.[1]

Pre-project selling in property marketing is a strategy widely used by developers to offer housing units before construction is complete. While it facilitates developers' access to funding, this practice often creates various legal issues that can be detrimental to consumers. Many developers market their properties before all permit requirements have been met, provide information that does not reflect actual conditions, or fail to complete construction within the agreed timelines and specifications. As a result, consumers face various risks, such as delayed unit delivery, inconsistencies between building specifications and brochures, unclear land legal status, and the lack of infrastructure, facilities, and public utilities (PSU). These conditions constitute a form of breach of contract that violates the provisions of Law Number 1 of 2011 concerning Housing and Residential Areas, Government Regulation Number 12 of 2021, and Law Number 8 of 1999 concerning Consumer Protection.[2]

This issue is reflected in the Klaten District Court Decision Number 44/Pdt.G/2023/PN Kln, which concerns a land sale and purchase dispute for housing units. In this case, the plaintiff sued the developer for negligence in the process of transferring land rights and issuing ownership certificates. Although the agreement was made underhand, the panel of judges still considered the validity of the agreement under Article 1320 of the Civil Code, taking into account payment and physical possession of the disputed object. This decision demonstrates that pre-project selling practices still have the potential to generate disputes if they are not supported by the fulfillment of legal requirements and legal certainty from the outset.

[1]Agus Setiawan, 2018, Property Marketing Strategies and Pre-Project Selling Trends in Indonesia, Erlangga, Jakarta, p. 85.
[2]Andi Nugroho, “Consumer Protection in Pre-Project Property Selling Transactions,” Indonesian Journal of Law and Property, Vol. 10, No. 2, 2023, pp. 145-147.

Legal protection for consumers in property transactions is not only the responsibility of developers, but also requires the strategic role of Notaries and Land Deed Officials (PPAT). Notaries are authorized to draft Sales and Purchase Agreements (PPJB) as a preliminary agreement that provides certainty regarding the rights and obligations of the parties, while PPATs are authorized to draft Sales and Purchase Deeds (AJB) as the authentic basis for the transfer of land rights. In exercising their authority, Notaries and PPATs are required to apply the principle of prudence by ensuring that all legal requirements are met before the deed is drawn up, thus providing preventative legal protection while minimizing the potential for future disputes.

Theoretically, legal protection for consumers is part of the state's guarantee of legal certainty and justice. This protection is realized through preventive measures in the form of information transparency, legal certainty, and the preparation of balanced agreements, as well as repressive measures through the cancellation of agreements and the provision of compensation in the event of a violation of consumer rights. Thus, legal protection in pre-project selling transactions is essentially a multi-layered protection, namely the developer is responsible for the substance and implementation of the development, while the Notary and PPAT guarantee the formal aspects, validity, and legality of every legal action carried out by the parties.[3]

Based on this description, the still high potential for disputes in pre-project selling practices indicates that legal protection for consumers has not been optimally implemented. Therefore, a study is needed regarding the implementation of legal protection through the role of Notaries and Land Deed Officials (PPAT) in property transactions to provide legal certainty, justice, and effective protection for consumers. Based on this, this study is entitled "Consumer Legal Protection in Property Transactions."Property Developer Through Notary Deed/PPAT in Klaten Regency.

2. Research Methods

This study employed an empirical legal research method with a sociological and case-based approach. Primary data were obtained through interviews with Notaries/PPAT (Deed Officials) in Klaten Regency, while secondary data were obtained through a literature review of laws and regulations, court decisions, books, and journals. Data were analyzed prescriptively to assess the alignment between legal provisions and practice and to formulate legal protection measures for consumers in property transactions.

[3]Philipus M. Hadjon, 2016, Legal Protection for the Community, Citra Aditya Bakti, Bandung, pp. 112-115

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3. Results and Discussion

3.1. Legal Relationship between Developers, Notaries/PPAT, and Consumers in Property Sale and Purchase Transactions in Klaten Regency

Based on Law Number 1 of 2011 concerning Housing and Residential Areas, housing is a collection of houses that function as a residential environment and are equipped with infrastructure, facilities, and public utilities. The implementation of housing is carried out based on the principles of benefit, justice, equity, affordability, independence, and environmental sustainability in order to create decent and sustainable housing. Based on these provisions, housing is divided into subsidized housing intended for Low-Income Communities (MBR) with government support, and commercial housing organized by developers based on market mechanisms without subsidies, but still required to meet administrative, technical, and legal requirements in accordance with statutory regulations.[4]

In Indonesian land law, home ownership is inseparable from the underlying land rights. Common forms of land rights include Ownership Rights (Hak Milik/HM), Building Use Rights (Hak Guna Bangunan/HGB), and Use Rights (Hak Pakai/HP), each with distinct characteristics, durations, and authorities as stipulated in the Basic Agrarian Law. Therefore, a house, as an immovable object, has both economic and legal value, providing legal certainty for all parties in a sale and purchase transaction.

Housing development must meet administrative, technical, and legal requirements, including ensuring land rights, compliance with spatial plans, and obtaining all required permits. Furthermore, developers are obligated to provide adequate infrastructure, facilities, and public utilities (PSU) to create a safe, comfortable, and sustainable residential environment. These provisions align with Law Number 5 of 1960 concerning Basic Agrarian Principles, which stipulates that land rights must be utilized in accordance with the land's social function, spatial plans, and statutory provisions. Therefore, every development and property transaction must be conducted based on the principles of legal certainty, prudence, and legal protection for all parties involved.[5]

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[4]Budi Santoso, 2015, Property Marketing Management in Indonesia, Jakarta: Prenadamedia Group, p. 112

[5]Boedi Harsono, 2008, Indonesian Agrarian Law: History of the Formation of the Basic Agrarian Law, Djambatan, Jakarta, p. 233.

order to create decent and sustainable housing. Based on these provisions, housing is divided into subsidized housing intended for Low-Income Communities (MBR) with government support, and commercial housing organized by developers based on market mechanisms without subsidies, but still required to meet administrative, technical, and legal requirements in accordance with statutory regulations.

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Deeds drawn up by Notaries and Land Deed Officials (PPAT) have full evidentiary power as authentic deeds as stipulated in Article 1870 of the Civil Code. Therefore, in property sales transactions, especially through pre-project selling schemes, Notaries and PPATs play a crucial role in ensuring legal certainty, the validity of agreements, and legal protection for the parties. The responsibilities of Notaries/PPATs include administrative, civil, criminal, and ethical responsibilities, so that every deed drawn up must comply with statutory provisions and the principle of prudence.[7]

The legal relationship in a property transaction involves three parties: the developer, the notary/PPAT, and the consumer. The developer, as a business actor, has the right to receive payment according to the agreement, but is also obliged to build the house according to specifications, complete permits, provide infrastructure, facilities, and public utilities (PSU), hand over the house on time, and provide correct information to the consumer. If these obligations are not

[6]Andi Prasetyo, "Implementation of Government Regulation Number 12 of 2021 in Supervising Housing Developers," Journal of Housing and Settlement Areas, Vol. 7, No. 1, 2022, pp. 45-46.
[7]Jeremy Bentham, 1948, An Introduction to the Principles of Morals and Legislation, Oxford: Clarendon Press, p.3.

met, the developer can be held accountable through civil, administrative, and criminal law in accordance with Law Number 1 of 2011 and Law Number 8 of 1999 concerning Consumer Protection. On the other hand, consumers have the right to obtain correct information, a house according to the agreement, certainty of land rights, and compensation in the event of default. Consequently, consumers are also obliged to fulfill payments, comply with the contents of the PPJB, and act in good faith in implementing the agreement.[8]

Based on a case study at PT Wijaya Karya in Klaten Regency, disputes can arise due to both developer and consumer errors. For the developer, problems such as delays in construction, the issuance of the Deed of Sale and Purchase, the transfer of title to the certificate, and the handover of the house constitute a form of default that can result in an obligation to pay compensation or cancel the agreement. Conversely, if the consumer fails to make the payment as agreed, the developer has the right to impose sanctions in accordance with the PPJB, including deductions or forfeiture of the down payment based on the principle of pacta sunt servanda. Thus, legal liability is determined based on the party that does not fulfill the agreed performance.

The legal relationship between developers and consumers is contractual, starting from the PPJB to the AJB, while the relationship between developers and consumers with Notaries/PPAT is an official legal relationship. In their position as public officials, Notaries/PPAT are required to be neutral, verify the identities of the parties, verify the validity of documents, ensure the legal status of the object, and guarantee the fulfillment of the legal requirements of the agreement before the deed is drawn up. This role is a form of preventive legal protection aimed at preventing disputes and providing legal certainty in property transactions. If a default occurs, the settlement is carried out based on the provisions of the Civil Code and the Consumer Protection Law through the provision of compensation or other legal mechanisms. Thus, legal protection in pre-project selling transactions is realized through a balance of rights and obligations between developers and consumers, as well as the active role of Notaries/PPAT in ensuring the validity of each stage of the transfer of land and building rights.[9]

3.2. Legal Consequences for Consumers of Property Transactions Through Notarial Deeds/PPAT by Developers in Klaten Regency and Legal Protection Solutions for Consumers

A consumer is any person who uses goods and/or services for personal, family, other people, or other living beings interests that are not for trading. Law Number 8 of 1999 concerning Consumer Protection guarantees consumer rights,

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[8]Achmad Rifai, 2020, Achieving Justice with Progressive Law: An Effort to Perfect Judges' Decisions on Justice, CV. Nas Media Pustaka. Makassar, p. 6

[9]Mariam Darus Badrulzaman, 2015, Contract Law in the Civil Code, Alumni, Bandung, p. 84

such as the right to security, the right to choose, the right to obtain information, and the right to be heard as also stated by John F. Kennedy. However, in the practice of property transactions, violations of consumer rights often occur, especially in the pre-project selling system, namely marketing a house before construction is completed. The transaction begins with a House Order Letter (SPR) or Purchase Agreement Letter (SPP), then continues with a Sales Purchase Binding Agreement (PPJB) and finally a Sale and Purchase Deed (AJB).[10]

The pre-project selling system has the potential to lead to default if the developer fails to fulfill its obligations, such as delays in construction, non-compliance with building specifications, failure to issue land title certificates, or the unavailability of infrastructure and utilities as agreed. Conversely, default can also be committed by consumers, for example, by failing to make payments as per the agreement. Based on Articles 1234, 1243, and 1267 of the Civil Code, the injured party has the right to demand fulfillment of performance, cancellation of the agreement, or compensation.[11]

This issue is reflected in the Klaten District Court Decision Number 44/Pdt.G/2023/PN Kln, which stated that the underhand sale and purchase agreement remained valid under Article 1320 of the Civil Code because it met the requirements for a valid agreement. However, the developer was deemed to have committed a breach of contract by failing to complete the land transfer process, preventing the issuance of a Certificate of Ownership. This decision emphasizes the importance of the principle of good faith, legal certainty in property transactions, and the restoration of consumer rights through a compensation mechanism (restitutio in integrum).

Legal protection for consumers in property transactions depends heavily on the role of Notaries/PPATs. As authentic deeds, PPJB and AJB deeds have perfect evidentiary force according to Article 1870 of the Civil Code. Notaries/PPATs are responsible for ensuring the formal validity of the document, the legality of the object, and the fulfillment of the requirements for deed preparation. If formal requirements are not met, the deed may lose its evidentiary force as an authentic deed or even be legally void if the objective requirements of the agreement as stipulated in Article 1320 of the Civil Code are not met.[12]

In practice, consumer protection still faces various obstacles, such as a lack of information transparency from developers, weak consumer bargaining power in preparing PPJB, delays in certificate issuance, and low consumer legal understanding. These conditions put consumers in a weaker position compared to business actors. According to Philipus M. Hadjon's legal protection theory,

[10]Shidarta, 2006, Indonesian Consumer Protection Law, Grasindo, Jakarta, p. 23
[11]Celina Tri Siwi Kristiyanti, 2018, Consumer Protection Law, Sinar Grafika, Jakarta, p. 41
[12]Salim HS, 2010, Development of Contract Law in Indonesia, Rajawali Pers, Jakarta, p. 52.

legal protection consists of preventive and repressive protection. Preventive protection is carried out through the preparation of a fair PPJB, legality checks by a Notary/PPAT, and the creation of AJB in accordance with legal provisions. Repressive protection is provided through dispute resolution, both non-litigation through the Consumer Dispute Resolution Agency (BPSK), mediation, conciliation, and arbitration, or through lawsuits for breach of contract or unlawful acts in court.[13]

Therefore, legal protection for consumers in property transactions requires the active role of Notaries/PPATs in ensuring the legality of the transaction, the balance of the parties' rights and obligations, and the developer's compliance with statutory provisions. Furthermore, consumers need to exercise increased caution by understanding the contents of the PPJB, checking the legal status of the land and permits, and ensuring all legal requirements have been met before entering into a transaction, so that legal certainty, justice, and consumer protection can be optimally realized.

4. Conclusion

Property sales transactions through the pre-project selling system constitute a legal relationship between developers and consumers, carried out through the stages of SPR/SPP, PPJB, and AJB before a Notary/PPAT. Therefore, it must comply with statutory provisions to ensure legal certainty, justice, and benefit. Legal protection for consumers is essential because defaults by developers are still common, such as construction delays, non-compliance with building specifications, and negligence in the process of transferring land rights. The Klaten District Court Decision Number 44/Pdt.G/2023/PN Kln demonstrates the importance of the role of Notaries/PPAT in providing preventive legal protection through the preparation of valid deeds and ensuring the legality of the object and the balance of the parties' rights. In the event of a dispute, repressive legal protection can be sought through out-of-court settlements or through the courts with demands for cancellation of the agreement and compensation.

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[13]Philipus M. Hadjon, 1987, Legal Protection for the People in Indonesia, Bina Ilmu, Surabaya, p. 25

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