Legal Protection of The Subdivision of Freehold Title Certificates (Shm) as The Basis For Consumer Rights In Sale and Purchase Binding Agreements (PPJB) For Housing Transactions

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Abstract.
Currently, the demand for residential housing is very high. Therefore, the government permits the transfer of land rights based on a Sale and Purchase Binding Agreement (PPJB), provided that certain requirements are met. One of the requirements is that the agreement must be executed before an authorized Notary, the housing development must have reached at least 20% construction progress, and the developer must have obtained a building permit issued by the relevant government authority. This study aims to examine the legal protection concerning the implementation of the subdivision of Freehold Title Certificates (Hak Milik) as a basis for consumer protection under the Sale and Purchase Binding Agreement (PPJB) in housing transactions. It also analyzes the legal framework governing liability in relation to such legal protection. This research employs a normative legal research method. The legal materials used consist of two types, namely primary and secondary legal materials. The legal materials were collected through library research, while the approaches adopted in this study are the statutory approach and the conceptual case approach. The results of the study indicate that consumers obtain legal protection in a PPJB once they have fully paid the purchase price and the PPJB has been executed before a Notary. Furthermore, if the developer breaches the PPJB, legal protection for consumers may initially be pursued through deliberation to reach a mutual agreement. If no agreement can be reached, consumers may file a lawsuit before the general courts or, alternatively, resolve the dispute through out-of-court mechanisms, which are generally conducted through arbitration.
Keywords: *Housing, Sale and Purchase Binding Agreement (PPJB) and Consumer Protection.*

I. INTRODUCTION

A Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) for condominium units should be executed clearly and explicitly before a Notary to ensure legal certainty for all parties, particularly the purchaser. This is because many condominium unit purchasers continue to enter into PPJBs in which they, as consumers, do not receive the legal certainty as mandated by Government Regulation of the Republic of Indonesia Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 on the Administration of Housing and Residential Areas.

Housing and residential areas constitute one of the basic needs of every individual. As the population continues to grow while the availability of land remains limited, the imbalance between rapid population growth and scarce land resources in Indonesia has raised public concern regarding the fulfillment of this fundamental need.[1]

The rapid growth of the housing sector in recent years has created intense competition among developers to attract prospective buyers. As a result, developers have increasingly adopted practical and efficient marketing strategies to sell properties, including office buildings, housing estates, apartments, and condominium units. One such strategy is the pre-project selling system. Pre-project selling refers to a marketing system in which developers offer and sell properties based on designs, plans, or conceptual drawings before construction has been completed. This method is widely used by housing developers to attract consumer interest through visual representations or development concepts, enabling properties to be sold more quickly without waiting for their physical completion.

In addition, pre-project selling functions as a market test to assess whether the proposed property development is likely to be accepted by consumers. However, in practice, some developers continue to market properties through the pre-project selling system even though they have not yet obtained the necessary permits, such as building construction permits, construction approvals, and other licenses required for the development of the property.

The pre-project selling system offers both advantages and disadvantages for consumers. One of its primary advantages is that consumers are able to purchase property at a lower initial price compared to the price of a completed property. In addition, housing developers generally provide flexible payment schemes for down payments or booking fees, allowing consumers to pay in installments over a period that has been mutually agreed upon between the parties.

However, the disadvantages of the pre-project selling system commonly arise during the execution of the Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB). In practice, such agreements are often drafted unilaterally by developers, resulting in contractual provisions that primarily favor the developers while placing consumers in a weaker bargaining position. Under these circumstances, where the sale and purchase of condominium units cannot yet be completed because the legal title has not been issued, the transaction is generally preceded by a Sale and Purchase Binding Agreement (PPJB). Through the execution of the PPJB, both parties—the prospective purchaser and the prospective seller—express their mutual intention to conclude the final sale and purchase transaction at a later stage.[2]

Within the framework of contract law, a PPJB is classified as an obligatory agreement (obligatoire overeenkomst). An obligatory agreement is a legally valid agreement that binds the parties by creating reciprocal rights and obligations, but it does not by itself transfer ownership rights. The transfer of ownership requires a separate proprietary agreement (zakelijke overeenkomst) accompanied by the formal delivery (levering) of the property. Likewise, a PPJB merely establishes the rights and obligations of the parties. The actual transfer of ownership is effected through the execution of a Deed of Sale and Purchase (Akta Jual Beli/AJB). [3]

For this reason, the PPJB is categorized as an obligatory agreement rather than a proprietary agreement.a concept of a sale and purchase agreement as an obligatory agreement is also recognized under the Burgerlijk Wetboek voor Indonesië (BW) (Indonesian Civil Code). This means that a sale and purchase agreement merely establishes reciprocal rights and obligations between the seller and the buyer. It imposes upon the seller the obligation to transfer ownership of the goods sold while simultaneously granting the seller the right to demand payment of the agreed purchase price. Conversely, it imposes upon the buyer the obligation to pay the purchase price in exchange for the right to demand the transfer of ownership of the purchased goods. In other words, under the BW, a sale and purchase agreement does not itself transfer ownership. Ownership is transferred only upon the completion of delivery (levering). Accordingly, under the BW system, delivery constitutes a legal act intended to transfer ownership, the method of which varies depending on the type of property involved.

With respect to the foregoing, Subekti explains that a sale and purchase agreement involves the allocation of risk, whereby, until ownership has been legally transferred, the risk associated with the property—regardless of its nature—remains with the seller, who continues to be the legal owner until the property is juridically delivered to the buyer. Pursuant to Article 22 of Government Regulation of the Republic of Indonesia Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 on the Administration of Housing and Residential Areas, a Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) must satisfy the following requirements:

a. the legal status of land ownership;

b. the subject matter agreed upon by the parties;

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[3] Setyowati, Retno Kus dan Asmaniar. "Pembatalan Transaksi Hak Atas Tanah Oleh Penjual Dengan Alasan Belum Lunas," Binamulia Hukum. Vol. 9, Nomor 1 (Juli 2020). hlm. 6

c. the Building Approval (Persetujuan Bangunan Gedung—PBG);
d. the availability of public infrastructure, facilities, and public utilities; and
e. construction progress of at least twenty percent (20%).Pengaturan PPJB

Article 22J further stipulates that a Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) must contain the following provisions:
a. the identities of the parties;
b. a description of the object of the PPJB;
c. the purchase price of the property and the payment procedures;
d. guarantees provided by the developer;
e. the rights and obligations of the parties;
f. the schedule for the handover of the building;
g. the maintenance of the building;
h. the use of the building;
i. the transfer of rights, termination, and expiration of the PPJB; and
j. dispute resolution mechanisms.

This paper aims to examine the legal certainty provided by Sale and Purchase Binding Agreements (PPJBs) in housing transactions, as well as the legal protection afforded to consumers under such agreements, particularly in light of the increasing number of breaches of contract arising from these legal relationships. These issues have been briefly introduced in the preceding section. The research methodology employed in this study is presented in the methodology section, while the principal legal issues are discussed in detail in the discussion section. Finally, the paper concludes with the author's conclusions and recommendations in the concluding section.

II. METHOD

study employs a normative legal research method by utilizing both primary and secondary legal materials. Data were collected through library research and document analysis. The analytical method applied is deductive syllogistic reasoning, while the interpretation is based on a deductive reasoning approach. The analysis begins with a major premise asserting that the legal system of a state must possess a hierarchical structure of legal norms that must be observed by its citizens. Likewise, the government, as the law-making authority, is obliged to comply with and enact regulations in accordance with the established legal framework. This general major premise represents the das sein (existing reality) of the study. The major premise is subsequently compared with a minor premise, which serves a casuistic function and represents the das sollen (normative ideal) of the research. In this context, the study examines the issue of legal certainty concerning the transfer of land rights based on privately executed Sale and Purchase Binding Agreements (Perjanjian Pengikatan Jual Beli—PPJBs), a practice that has become increasingly common between property developers and land purchasers. This practice persists despite the fact that Government Regulation of the Republic of Indonesia Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 on the Administration of Housing and Residential Areas expressly prescribes the requirements that must be fulfilled before a PPJB may be executed. At a minimum, the housing project must have reached twenty percent (20%) of its overall construction progress. Equally important, the PPJB should be executed before an authorized Notary rather than as a privately executed agreement, a practice that has commonly been adopted by many developers primarily as a cost-saving measure

III. Result and Discussion

a. Legal Protection of the Master Sale and Purchase Binding Agreement (PPJB)

A Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli—PPJB) is an agreement entered into between a prospective purchaser and a prospective seller of land and/or buildings prior to the execution of a Deed of Sale and Purchase (Akta Jual Beli—AJB). A PPJB is generally executed because certain legal or administrative requirements have not yet been fulfilled, preventing the Land Deed Official (Pejabat Pembuat Akta Tanah-PPAT) from immediately executing the AJB.[4]

The term PPJB is not expressly recognized in the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata—KUH Perdata). Nevertheless, this type of agreement has developed in legal practice as a consequence of the open nature of Book III of the Civil Code, which embodies the principle of freedom of contract. This principle grants legal subjects the freedom to enter into agreements of any form and content, provided that such agreements do not contravene statutory law, morality, or public order. The concept of a Sale and Purchase Binding Agreement may be understood by distinguishing the terms "agreement" and "sale and purchase binding."

According to Herlien Budiono, an agreement is a legal act that gives rise to, modifies, or extinguishes rights, or establishes a legal relationship. Meanwhile, Subekti defines a Sale and Purchase Binding Agreement as an agreement concluded between the seller and the purchaser prior to the execution of the actual sale and purchase transaction because certain legal requirements have not yet been fulfilled, such as when the certificate of title is still in the process of being issued or when the purchase price has not yet been fully paid. Based on the views of these legal scholars, a PPJB may therefore be understood as a legal act that establishes a legal relationship between the prospective seller and the prospective purchaser before the legal requirements necessary for the execution of the final sale and purchase have been satisfied.[5]

The PPJB functions as a preliminary agreement, whether executed privately or before a Notary, with the purpose of legally binding the parties to the terms and conditions that have been agreed upon pending the execution of the principal agreement, namely the Deed of Sale and Purchase (AJB). In practice, the use of a PPJB is generally justified where the legal requirements for executing the AJB have not yet been fulfilled. Such circumstances include incomplete documentation required for the AJB, outstanding payment of the purchase price, payment of only a booking fee or deposit as an initial commitment, the property development not yet having been completed, or the annual Land and Building Tax Due Notification Letter (SPPT PBB) for the relevant tax year not yet having been issued.

As an agreement that arises from practical necessity and is not expressly regulated by statutory provisions, a Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) does not have a specific prescribed form. This is consistent with the opinion of Herlien Budiono, who states that a PPJB constitutes an auxiliary agreement that functions as a preliminary agreement with a flexible form.

The PPJB Regulation (Permen Sistem PPJB) recognizes two terms related to PPJB, namely the Preliminary Sale and Purchase Agreement (Perjanjian Pendahuluan Jual Beli) and the Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli). Both terms form part of the PPJB System, which refers to a series of agreement processes between any person and a developer in marketing activities, documented in either a Preliminary Sale and Purchase Agreement or a Sale and Purchase Binding Agreement prior to the execution of the Deed of Sale and Purchase (Akta Jual Beli/AJB).

According to Professor Arie S. Hutagalung, a Preliminary Sale and Purchase Agreement (preliminary purchase) constitutes one of the stages undertaken by housing developers and consumers in relation to a pre-order sale and purchase transaction, which will subsequently be set forth in a binding agreement deed for condominium units. Furthermore, during the National Seminar of the Master of Notarial Law Program of the Faculty of Law, University of Indonesia (FHUI), entitled *"Pre-Sale and Purchase Binding Agreement: The Legality of Condominium Marketing,"* Professor Arie S. Hutagalung explained that the Preliminary Sale and Purchase Agreement, also known as Pre-PPJB, is an agreement executed while the developer is still marketing its condominium products.[6] This matter is specifically regulated under Government Regulation of the Republic of Indonesia Number 12 of 2021 concerning Amendments to Government Regulation Number

14 of 2016 on the Administration of Housing and Residential Areas. This regulation refers to Pre-PPJB as a booking order letter (surat pesanan).

Based on the foregoing explanation, it can be understood that a Preliminary Sale and Purchase Agreement for Condominium Units is an agreement between the developer, acting as the prospective seller, and the prospective purchaser during the marketing stage of condominium units, with the purpose of reserving the property before it is subsequently incorporated into a Sale and Purchase Binding Agreement, which constitutes the primary subject of this research.

The definition of a Sale and Purchase Binding Agreement (PPJB) for condominium units in Indonesia, as regulated under the PPJB Regulation, refers to an agreement between a developer and any person to conduct the sale and purchase of a house or condominium unit. Such an agreement may be executed by the developer prior to the commencement of condominium construction or during the construction process for landed houses and row houses, and it must be documented in the form of a notarial deed.[7]

In practice, the implementation of the Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) still shows that many developers do not execute PPJBs before a Notary in the form of an authentic deed, but instead prepare them as privately executed deeds (*akta di bawah tangan*). A PPJB executed as an authentic deed and a PPJB executed as a privately executed deed have fundamental differences, particularly in terms of their evidentiary strength. A Sale and Purchase Binding Agreement executed privately has weaker evidentiary value because its validity must be supported by the acknowledgment of the parties that the deed was indeed executed. In contrast, a PPJB executed before an authorized official constitutes an authentic deed, which serves as perfect evidence. Its evidentiary strength covers three aspects: first, external validity, formal validity, and material validity; and second, the truthfulness of the statements contained in the authentic deed does not require further proof through other evidentiary instruments and is considered valid unless proven otherwise.[8]

According to Yahya Harahap, as discussed in the *Negara Hukum* portal, a privately executed deed only possesses two aspects of evidentiary strength. Unlike an authentic deed, it does not possess external evidentiary strength that prevents the judge from questioning its authenticity. Therefore, the opposing party must provide evidence of the alleged “falsity” of the deed. More specifically, the evidentiary strength of a privately executed deed may be described as follows:

a. **Formal Evidentiary Strength**

The extent of the formal evidentiary strength of a privately executed deed may be explained through two aspects:

1. **The person who signs the deed is deemed to have correctly stated the matters contained therein.**

Based on this formal evidentiary strength, the law recognizes that any person who signs a privately executed deed:

a. is presumed to have correctly stated the matters described in the deed,and

b. based on such formal evidentiary strength, the existence of the statement made by the signatory must be considered proven.

The formal evidentiary strength of a privately executed deed includes the truthfulness of the identity of the signatory as well as the identity of the person providing the statement.

2. **It is not absolute for the benefit of the other party.**

The formal evidentiary strength of a privately executed deed is not absolute for the benefit of the opposing party because it is not prepared before a public official. The statements contained in such a deed are therefore not absolutely binding to the advantage of another party. They may benefit or disadvantage another party because the statements contained in a privately executed deed do not necessarily represent a complete agreement of the parties' declarations. In a privately executed deed, each party is legally entitled to dispute the contents of the deed and the authenticity of the signatures affixed thereto.

a. Material Evidentiary Strength

While the issue concerning formal evidentiary strength relates to the validity of the contents of the signature and the identity of the signatory, material evidentiary strength focuses on the truthfulness of the statements contained in a privately executed deed. The main issue is whether the contents of the deed are true and to what extent the statements contained therein reflect the actual circumstances. The principles that must be upheld regarding the material evidentiary strength are as follows:

a. Materially, the contents of the statements contained in a privately executed deed must be considered true;
b. The statements contained in the deed are deemed to represent the statements intended by the signatory. Materially, the contents of a privately executed deed are binding upon the person who signed the deed. According to Yahya Harahap, as stated in the same source, the evidentiary strength attached to an authentic deed consists of three inherent forms of evidentiary power, namely:

1. External Evidentiary Strength

An authentic deed presented as evidence must be considered and treated as an authentic deed unless it can be proven otherwise that the deed is not an authentic deed. As long as there is no evidence to the contrary, the deed retains external evidentiary strength. The meaning of external evidentiary strength is the application of a legal presumption that every authentic deed must be presumed valid and authentic until the opposing party is able to prove otherwise.

2. Formal Evidentiary Strength

Based on Article 1871 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata/KUH Perdata*), all statements contained in an authentic deed are deemed to have been correctly given and conveyed before the official who prepared the deed. Therefore, all statements provided by the signatory in an authentic deed are considered true as statements expressed and intended by the relevant party.

The presumption of truth contained in an authentic deed is not only limited to the truthfulness of the statements or declarations made by the person signing the deed but also extends to the formal accuracy recorded by the official who prepared the deed, including the date stated therein. Consequently, the date stated in the deed must be considered correct, and the date of execution of the deed can no longer be disputed or invalidated by the parties or by the judge.

3. Material Evidentiary Strength

The third form of evidentiary strength of an authentic deed contains three fundamental principles:

a. The signing of an authentic deed by a person is deemed to be for the benefit of another party.

This constitutes the primary principle of the material evidentiary strength of an authentic deed. Every person who signs an authentic deed must always be presumed to do so for the benefit of another party rather than for his or her own benefit.

b. A person may only impose obligations upon himself or herself.

This principle constitutes a continuation of the first principle. When connected with the principle that the signing of an authentic deed is intended for the benefit of another party, the material evidentiary strength of an authentic deed may be established as follows: a person who signs an authentic deed voluntarily expresses his or her intention and will as stated in the deed. The purpose and intention of such declaration are incorporated into the deed to guarantee the authenticity and truthfulness of the deed. Therefore, at a later date, the signatory may not claim or deny that he or she did not make the statements or provide the information contained in the deed.

Nevertheless, it should be noted that this does not mean that the truth contained in an authentic deed is absolute and always corresponds entirely with the actual circumstances.

c. Legal consequences of an authentic deed in relation to its material evidentiary strength.

Where two or more persons provide mutual statements to be incorporated into an authentic deed, their actions, viewed from the perspective of the material evidentiary strength of the authentic deed, produce legal consequences. Such statements or declarations, insofar as they are mutually consistent, create an agreement that is binding upon the parties. Therefore, the deed serves as evidence of the existence of the agreement as described in the deed.

A Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) constitutes a form of contract law. Referring to the consensual nature of agreements, once mutual consent has been reached in a PPJB, such agreement immediately creates legal obligations and performances (*prestasi*) for each party, including the developer and the consumer. The existence of consent gives rise to an obligation for each party to fulfill the agreed performance. By examining the primary obligations of the developer as the seller of condominium units and the primary obligations of the consumer as the purchaser, it can be concluded that the developer's main obligation to deliver the condominium unit as the object of the agreement essentially represents the primary right of the consumer as the purchaser.

Conversely, the purchaser's primary obligation to pay the price of the condominium unit in accordance with the agreement constitutes the primary right of the developer as the seller. This demonstrates the reciprocal relationship between the developer's obligations as the seller of the condominium unit and the consumer's obligations as the purchaser, as well as the respective rights of each party. Based on Article 1338 paragraph (1) of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata/KUH Perdata*), every agreement that has been validly executed shall apply as law to the parties who enter into it. Therefore, a Sale and Purchase Binding Agreement for condominium units executed between a developer and a consumer is legally binding upon both parties. Each party is obligated to perform the provisions contained in the agreement.

Furthermore, paragraph (2) of Article 1338 emphasizes that an agreement that has been validly executed cannot be unilaterally withdrawn or canceled. An agreement may only be canceled under certain circumstances, namely:

1. Kedua belah pihak sepakat untuk mengakhiri perjanjian
2. Isi dari perjanjian tersebut bertentangan dengan undang-undang. Sehingga para pihak harus melaksanakan perjanjian dengan itikad baik.

If one or both parties act in bad faith in performing the obligations stipulated in the agreement, the party who suffers losses may submit a request for cancellation of the agreement to the District Court, provided that sufficient and convincing evidence is presented. Based on the foregoing explanations, it can be concluded that a Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) for condominium units is essentially an agreement based on the mutual consent between the developer as the seller and the purchaser, and therefore falls within the scope of contract law as regulated under the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata/KUH Perdata*).

In its development, in order to provide legal certainty for the parties, the PPJB for condominium units has been regulated through more specific statutory provisions, namely the Condominium Law and, more recently, its implementing regulation in the form of the Regulation of the Minister of Public Works and Housing concerning the System of Preliminary Sale and Purchase Agreements for Houses. Referring to these two legal provisions, a PPJB for condominium units should be executed before a Notary in the form of an authentic deed in order to ensure fair legal certainty for all parties. Consequently, the agreement does not create a situation where one party obtains greater benefits or suffers greater losses compared to the other party. Furthermore, Supreme Court Circular Letter Number 4 of 2016 (SEMA No. 4 of 2016) stipulates that a purchaser acting in good faith must receive legal protection. The transfer of land rights based on a Sale and Purchase Binding Agreement (PPJB) is legally recognized when the purchaser has fully paid the purchase price of the land, has obtained possession and control over the object of the sale and purchase, and has acted in good faith.

Regulation of Developer Liability Towards Consumers in the Process of Subdivision of Freehold Title Certificates

Law is created as a means to regulate the rights and obligations of legal subjects, including individuals and legal entities, so that they may exercise their rights and perform their obligations properly and obtain their rights in a fair manner. Law functions as a mechanism for protecting human interests; therefore, legal provisions must be implemented and enforced.A violation of law occurs when one party fails to perform its obligations, resulting in another party suffering losses. In such circumstances, the party whose rights have been violated or who has suffered losses must be afforded legal protection.[9]

According to Dr. Sri Handajani, legal protection arises in the context of the relationship between the government and the people under its authority, thereby giving rise to the concept of legal protection for citizens. Protection refers to an act or measure intended to safeguard, while law constitutes a set of rules established to preserve the interests of all parties.

Legal protection itself represents the manifestation of the functioning of law in achieving its objectives, namely justice, utility, and legal certainty. According to Wirjono Prodjodikoro, legal protection is an effort to protect legal subjects by providing means through which they may maintain or defend their interests and rights. Such protection may take the form of preventive measures (prevention) or repressive measures (enforcement), whether provided through written or unwritten legal rules, in order to ensure the enforcement of legal provisions.[10]

According to Dr. Sri Handajani, the elements contained within legal protection are as follows:

1. A guarantee provided by the authorized party;
2. Granted to all parties;
3. To enable them to exercise their legal rights and perform their legal obligations; and
4. In their capacity as legal subjects.

Legal protection consists of two terms, namely “protection” and “law.” According to the Indonesian Dictionary (Kamus Besar Bahasa Indonesia), the term “protection” refers to a place of shelter or an act of protecting, such as providing protection to vulnerable persons. Based on the meanings of the terms “protection” and “law,” legal protection may generally be defined as protection provided to legal subjects in the form of legal instruments, whether preventive in nature (prevention) or repressive in nature (enforcement), and whether established through written or unwritten rules. In other words, legal protection represents the function of law itself, namely a concept in which law is able to provide justice, order, certainty, utility, and peace.

Based on the definition and elements of legal protection described above, legal protection for consumers may be understood as an effort to provide protection in the form of a guarantee granted by an authorized party, namely the government, to legal subjects, particularly consumers, in order to protect and enable them to exercise their legal rights and perform their legal obligations. Legal protection for consumers against sellers, who often abuse their position as the stronger party, is necessary to establish legal certainty while ensuring the fulfillment of consumer needs and the achievement of justice.[11]

According to Imran Nating, as cited by Firna Arifin, legal protection in relationships between individuals and companies may be provided through both public and private mechanisms. Public legal protection is carried out by utilizing protective mechanisms provided by public legal provisions, such as statutory regulations. Meanwhile, private legal protection may be achieved by utilizing private legal protection mechanisms, particularly through the careful formulation and execution of contracts.

Legal protection for purchasers in a sale and purchase agreement for condominium units is, in principle, regulated under Article 1320 and Article 1365 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata/KUH Perdata). Article 1320 of the Civil Code regulates the four requirements for the validity of an agreement, while Article 1365 regulates the requirements for claiming compensation due to an unlawful act (onrechtmatige daad). The provision states that every unlawful act causing loss to another person obliges the party whose fault caused such loss to compensate for the damage incurred.

Furthermore, Article 1338 of the Civil Code provides that all agreements validly executed shall apply as law to the parties who made them. This provision demonstrates the existence of legal protection through recognition of the legal position and binding force of the PPJB executed by the parties.

In relation to the consensual nature of a sale and purchase agreement, once both parties have reached agreement regarding the object of sale and the price, a valid sale and purchase agreement is established. The consequence of the formation of such an agreement is the emergence of obligations for each party. In this context, protection for the purchaser arises through the seller's obligations under the agreement as a performance (prestasi) that must be fulfilled.

The seller's obligations under the Civil Code are regulated in Article 1474, namely the obligation to deliver ownership rights over the goods being sold, to guarantee peaceful enjoyment of the goods, and to provide protection against hidden defects in the goods.

Consumer protection measures regulated under the Condominium Law and the PPJB System Regulation are reflected in the obligations imposed upon developers as requirements that must be fulfilled before they are permitted to market housing through a Sale and Purchase Binding Agreement (PPJB). The existence of these provisions indicates the State's intention to guarantee legal certainty and protection for consumers, particularly because strict sanctions are imposed when such requirements are not fulfilled prior to the execution of a PPJB.[12]

However, unlike the sanctions imposed for failure to fulfill the aforementioned requirements, no strict sanctions apply to non-compliance with the prescribed form of the PPJB. Consequently, the position of consumers who have entered into agreements with developers that have fulfilled the required conditions remains relatively weak, particularly when the PPJB itself does not comply with the legally prescribed form.

Since the two aforementioned regulations specifically governing PPJBs for condominium units are unable to provide maximum protection for consumers, further consumer protection must be examined under Law Number 8 of 1999 concerning Consumer Protection. The Consumer Protection Law aims to provide legal protection for consumers, who generally occupy a weaker position compared to business actors.

Legal protection constitutes a form of protection of human rights that have been violated by other parties, and such protection is provided to society so that individuals may enjoy all rights granted by law. Article 4 of the Consumer Protection Law stipulates the rights of consumers, two of which include:

1. The right to obtain advocacy, protection, and appropriate efforts for the resolution of consumer protection disputes; and
2. The right to receive compensation, damages, and/or reimbursement if the goods and/or services received are not in accordance with the agreement or are not provided as they should be.

   Based on the rights described above, it is evident that the State provides guarantees to consumers, particularly through the Consumer Protection Law (UUPK), which is founded upon the principles of balance and legal certainty.[13] These principles aim to ensure that consumers, as the weaker party, receive protection for their rights. Consumer protection relating to the Sale and Purchase Binding Agreement (PPJB) for condominium units is regulated under the Consumer Protection Law through several provisions, including: :

a. Acting in good faith in conducting business activities. Good faith constitutes a principle intended to prevent improper actions and dishonesty that may be committed by developers in carrying out their business activities, including in the preparation and implementation of agreements.
b. Providing compensation, damages, and/or replacement if the goods and/or services received or utilized are not in accordance with the agreement.

This provision requires developers to assume responsibility if the matters agreed upon in the agreement are not consistent with the goods or services received by consumers. Consequently, consumers are entitled to receive compensation for any losses they have suffered.

a. Article 16 stipulates that developers, as business actors offering goods and/or services through orders, are prohibited from failing to fulfill orders and/or agreements regarding the completion period as promised, as well as from failing to fulfill promises concerning services and/or performance. The sanctions imposed for violating these prohibitions include imprisonment for a maximum period of 2 (two) years or a criminal fine of up to IDR 500,000,000.00 (five hundred million rupiah). These sanctions encourage developers to fulfill their contractual obligations, thereby providing a form of assurance for consumers regarding the performance of obligations by developers.
b. Consumer protection against the inclusion of certain prohibited standard clauses in standard agreements is regulated under Article 18. In the event of a violation, Article 18 paragraph (3) stipulates that any standard clause included in an agreement in violation of the provision shall be declared null and void by operation of law. Furthermore, Article 62 paragraph (1) provides sanctions in the form of imprisonment for a maximum period of 5 (five) years or a criminal fine of up to IDR 2,000,000,000.00 (two billion rupiah). In addition, as a consequence of such violations, business actors are required to adjust standard clauses that contradict the provisions of the law. Therefore, an adjustment agreement must be made to ensure conformity with the applicable legal provisions.
c. Another form of consumer protection under the Consumer Protection Law (UUPK) is regulated in Article 19, which provides provisions regarding the responsibility of business actors to provide compensation to consumers for damage, pollution, or losses arising from goods and/or services traded, provided that such losses do not result from the consumer's fault. Such compensation must be provided within a period of 7 (seven) days after the date of the transaction.

Based on these provisions, it can be understood that the Consumer Protection Law (UUPK) regulates consumer protection in relation to Sale and Purchase Binding Agreements (PPJBs) in a more detailed and certain manner through the aforementioned articles. Therefore, the position of consumers as the weaker party in relation to standard agreements receives guarantees for the protection of their rights from the State through the applicable legal provisions.

The enactment of Law Number 8 of 1999 concerning Consumer Protection (UUPK) is expected to have a positive impact on both business actors and consumers. Consumer protection does not only provide benefits for consumer interests but also serves the interests of business actors. The establishment of the Consumer Protection Law is expected to function as an instrument for providing legal protection in various fields, including matters related to the sale and purchase of condominium units.

1 point 1 of the Consumer Protection Law stipulates that consumer protection is defined as:

"All efforts that guarantee legal certainty to provide protection to consumers." Furthermore, Article 1 point 2 of the Consumer Protection Law defines consumers as follows:

"Consumers are every person who uses goods and/or services available in society, whether for their own interests, the interests of their family, other persons, or other living beings, and not for the purpose of trading."

Consumer protection under the Consumer Protection Law is intended to:

a. Enhancing consumers' awareness, abilities, and independence in protecting themselves;
b. Improving the dignity and status of consumers by preventing them from negative consequences arising from the use of goods and/or services;
c. Increasing consumer empowerment in choosing, determining, and asserting their rights as consumers;
d. Establishing a consumer protection system that incorporates elements of legal certainty, transparency of information, and access to obtain information;
e. Developing awareness among business actors regarding the importance of consumer protection, thereby fostering honest and responsible conduct in carrying out business activities;

f. Improving the quality of goods and/or services that ensure the continuity of business activities, as well as guaranteeing consumer health, comfort, security, and safety.

The Consumer Protection Law seeks to provide protection for the three consumer interests mentioned above. Nevertheless, in practice, consumers have not yet fully obtained fair legal protection. In relation to the sale and purchase of condominium units between developers and consumers, the responsibility of developers may be observed from the stage of issuing condominium offering brochures, the implementation of the Sale and Purchase Binding Agreement (PPJB) between developers and consumers, up to the post-handover stage of the property from the developer to the consumer.

As previously explained, legal protection for consumers in the event of developer default (wanprestasi) may be examined from several legal perspectives. It may be based on the Indonesian Civil Code (KUH Perdata/BW), which generally regulates sanctions arising from a breach of contract. It may also be based on the Consumer Protection Law (UUPK), particularly Articles 6 and 7, which regulate the rights and obligations of business actors, as well as Article 16 concerning prohibited acts by business actors, which provides as follows:

"Business actors offering goods and/or services through orders are prohibited from:

a) failing to fulfill orders and/or agreements regarding the completion time as promised;

b) failing to fulfill promises concerning services and/or performance."

Accordingly, legal protection for consumers in the event that a developer breaches the PPJB may initially be pursued through deliberation to reach a mutual agreement. If consensus cannot be achieved, consumers may file a lawsuit before the general court. Alternatively, if dispute resolution is pursued outside the court system, the mechanism generally adopted is arbitration.

If consumers file a lawsuit before the general court, then based on Article 1338 paragraph (1) of the Indonesian Civil Code (Burgerlijk Wetboek/BW), every agreement that has been validly executed shall apply as law to the parties who made it. Therefore, a PPJB entered into between a developer and a consumer is legally binding upon both parties. Each party is obligated to perform the provisions contained in the agreement.

IV. CONCLUSION

A Sale and Purchase Binding Agreement (Perjanjian Pengikatan Jual Beli/PPJB) for housing should be executed in accordance with the applicable laws and regulations, namely by being made before a Notary in the form of an authentic deed by the parties. Therefore, a PPJB for housing will possess legal certainty and perfect evidentiary strength. If a Sale and Purchase Binding Agreement executed before a Notary is used as evidence, its evidentiary process before the court may require additional evidence and witness testimony to prove its validity. Furthermore, a PPJB prepared in accordance with the applicable legal provisions ensures that the interests of the parties are protected in a balanced manner, thereby minimizing the risk of losses to either party Legal protection for condominium unit consumers in the event that a developer commits a breach of contract (wanprestasi) by failing to fulfill the obligations agreed upon in the PPJB may initially be pursued through deliberation to reach a mutual agreement. If such consensus cannot be achieved, consumers may file a lawsuit before the general court. Alternatively, if dispute resolution is pursued outside the court system, the mechanism generally adopted is arbitration.

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