

Developer's Responsibility to Consumers in a Problematic Property Sale and Purchase Agreement

Maria Alberta Liza Quintarti^{1*}, Lia Fadjriani², Tora Yuliana³, Silvester Magnus Loogman Palit⁴

¹Universitas Flores

²Universitas Batam

³Institut Maritim Prasetya Mandiri

⁴Universitas Cenderawasih

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ABSTRACT

Disputes in property sale and purchase agreements between consumers and developers are increasingly prevalent and often lead to legal conflicts. Common issues include discrepancies between promotional promises and the actual condition of the property, delays in handover, and hidden construction defects that only become apparent after occupancy. This article aims to explore the legal responsibilities of developers when breaches of contract or non-performance (*wanprestasi*) occur in property transactions. Utilizing a normative legal approach, this study analyzes statutory regulations and relevant court decisions to assess the extent of developers' obligations. The findings indicate that developers bear full legal responsibility for any violations of the agreement and that consumers are entitled to claim compensation through both civil law provisions and consumer protection frameworks. Strengthening the enforcement of developer accountability is crucial in ensuring fair and transparent property transactions.

*Corresponding Author:

Maria Alberta Liza Quintarti

Universitas Flores

Email : lizaquintarti63@gmail.com

INTRODUCTION

The real estate industry in Indonesia has experienced significant expansion in the last two decades, largely fueled by rapid urbanization, the emergence of a growing middle class, and increasing public access to financial instruments such as housing loans and mortgage financing. This economic and demographic shift has not only created a heightened demand for residential properties such as landed houses, apartments, and vertical housing but has also elevated the role of property developers as central players in shaping the urban landscape. Developers are no longer merely constructing physical spaces; they are in fact offering promises of quality living, future investment value, and lifestyle standards (Sonya, 2024). However, the rapid growth of this sector has brought with it a variety of legal challenges, particularly regarding the accountability of developers to consumers within the framework of sale and purchase agreements.

Purchasing a property is a major life decision, one that involves substantial financial commitment and long-term planning. For the average consumer, owning a home is not only a matter of acquiring a roof over one's head but also a form of economic security and personal achievement. Therefore, a property transaction should ideally be conducted on the basis of trust, transparency, and legal certainty. Unfortunately, the reality is often far from ideal. Numerous consumers have reported experiencing losses due to developers who fail to deliver as promised. These failures include delayed construction, substandard materials and workmanship, non-compliance with agreed-upon building specifications, and in extreme cases, projects that are abandoned

altogether after payments have already been made.

The legal dimension of such cases is complex. In many instances, developers commit what is legally defined as a breach of contract or non-performance, which in Indonesian civil law is referred to as *wanprestasi*. These breaches are not limited to minor delays or adjustments, but often involve fundamental violations of contractual obligations that cause significant material and psychological harm to consumers (Journal, 2024). Despite the seriousness of such breaches, consumers are often left in a disadvantaged position due to unequal bargaining power, lack of legal literacy, and limited access to effective dispute resolution mechanisms.

This asymmetry in the legal relationship is further exacerbated by the widespread use of standard-form contracts (often known as *adhesion contracts*) that are unilaterally drafted by developers. These contracts commonly contain rigid and one-sided clauses that favor the developer while minimizing consumer rights. Consumers, lacking both negotiating leverage and legal knowledge, are generally unable to challenge or amend these terms. Instead, they are presented with a “take it or leave it” agreement, which effectively strips them of any meaningful input in the contractual process. As a result, when a breach occurs, consumers are left with little recourse besides initiating protracted legal action, which may itself be daunting and inaccessible to the average individual.

Practical examples of such breaches are widespread. It is not uncommon to find significant discrepancies between the promotional materials shown to consumers and the actual property delivered. In some cases, the layout, finishing, or even square footage of the unit differs from what was promised. In others, delays in handover span years beyond the contractual deadline, or construction never begins despite buyers having paid in full or in substantial installments. These circumstances not only inflict financial losses but also cause emotional distress, particularly for consumers who had planned to occupy the property as their primary residence.

From a legal standpoint, the relationship between developers and consumers is primarily governed by the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or *KUHPerdata*), particularly in its provisions concerning contracts and obligations. However, given the inherent power imbalance between businesses and individuals, the Indonesian legal system supplements civil law with protective regulations chief among them Law No. 8 of 1999 on Consumer Protection (*Undang-Undang Perlindungan Konsumen* or *UUPK*) (Issn, 2022). This statute enshrines a set of rights for consumers and imposes specific responsibilities on business actors, including those in the real estate sector, to ensure fair treatment and accountability.

Beyond statutory law, there exists a network of administrative and regulatory instruments that reinforce these protections. The Ministry of Public Works and Housing, for instance, issues guidelines and technical standards for residential development, while the Financial Services Authority (*Otoritas Jasa Keuangan* or *OJK*) oversees financial products associated with property purchases, such as mortgage agreements (Email, n.d.). In addition, judicial precedents established by the Supreme Court serve as important interpretive tools, helping to clarify ambiguities in the law and providing guidance on how to assess developer liability in specific contexts.

This study aims to examine in depth the legal responsibilities borne by developers when they fail to fulfill the terms of a property sale agreement. Specifically, it seeks to analyze how Indonesian law conceptualizes and enforces accountability in such situations, what legal remedies are available to consumers, and how these legal mechanisms can be strengthened to ensure more equitable outcomes. Employing a normative legal research approach, supported by case law and doctrinal analysis, this article aspires to contribute to the growing discourse on consumer protection in the real estate sector.

Ultimately, this issue touches on broader questions of justice, fairness, and the role of law in regulating private economic relationships. It underscores the urgent need for all parties consumers, developers, regulators, and courts to engage in good faith and uphold the principles of contractual justice. For consumers, legal awareness is critical to asserting their rights and avoiding exploitative practices. For developers, compliance with legal and ethical standards is essential not only for avoiding liability but also for maintaining long-term trust and credibility in the market. And for the state, there is a duty to ensure that legal protections are not merely theoretical, but practically enforceable in ways that genuinely serve the public interest.

RESEARCH METHOD

This study employs a normative juridical approach, which is a legal research method focused on examining written legal norms as the primary basis for analyzing legal issues. This approach is particularly suitable for this research, as the main objective is to assess and explain the legal responsibilities of property developers in the context of problematic sale and purchase agreements. By referring to applicable statutory regulations, this method allows for a structured and objective examination of the rights and obligations of both parties involved in a legal contract.

The legal materials used in this study are divided into two categories: primary legal materials and secondary legal materials. Primary sources include relevant legislation such as the Indonesian Civil Code (KUHPerdata), particularly the sections concerning contract law and breach of contract; Law No. 8 of 1999 on Consumer Protection; and various regulations issued by the Ministry of Public Works and Housing concerning construction and housing standards. In addition, court decisions, especially those handed down by the Supreme Court of Indonesia, are also analyzed as jurisprudential references to observe how the law is interpreted and applied in real-life legal disputes between consumers and developers.

To support the analysis of these primary sources, the study also utilizes secondary legal materials, including scholarly books, academic journals, expert legal opinions, and other doctrinal writings relevant to contract law, consumer protection, and business liability in the real estate sector. These secondary materials provide a theoretical and contextual foundation that enhances the depth of the legal discussion, particularly in interpreting the law and understanding its practical implications.

The research adopts a descriptive-analytical approach, aiming to describe the relevant legal provisions governing developer responsibilities and analyze their application in various real-world cases. The analysis evaluates whether developers have fulfilled their contractual obligations and identifies the legal recourse available to consumers when violations occur. This method not only offers a normative understanding of legal texts but also critically assesses how these laws function in practice and their effectiveness in protecting consumer interests.

RESULT AND DISCUSSION

Legal Standing of Developers and Consumers in Property Sale and Purchase Agreements

In the Indonesian civil law system, the legal relationship between a property developer and a consumer is classified as a contractual agreement governed by Article 1313 of the Indonesian Civil Code (KUHPerdata). The developer acts as the business entity responsible for providing and marketing property products, such as residential houses or apartments, while the consumer serves as the buyer who agrees to pay a determined price as outlined in the agreement. Although this relationship is, in theory, reciprocal and consensual, consumers are frequently placed in a weaker bargaining position in practice (Alim, 2024).

This inequality largely stems from the widespread use of standard form contracts that are unilaterally drafted by developers. These contracts often contain clauses that heavily favor the developer and restrict the consumer's rights. Consumers are typically left with a "take it or leave it" choice, with little to no opportunity to negotiate terms. As a result, although the agreement may be legally valid, the imbalance of power renders consumers vulnerable to potential exploitation.

To mitigate this structural imbalance, the state provides legal protections through various legislative instruments, notably Law No. 8 of 1999 on Consumer Protection. This law guarantees consumers the right to accurate information, product transparency, and safety in transactions. Developers, in turn, are legally obligated to offer truthful details and are held accountable for any losses or damages stemming from misrepresentation or poor delivery of the promised product or service.

Forms of Breach of Contract (Wanprestasi) by Developers in Property Transactions

Breach of contract, or *wanprestasi*, is a prevalent issue in property sale and purchase agreements. It occurs when one party fails to fulfill the obligations stipulated in the contract. In property transactions, this may take the form of delayed handover of units, failure to meet promised construction specifications, hidden structural defects, or even complete project abandonment.

As regulated by Article 1243 of the Civil Code, a party may be held liable for damages if they default on their obligations after being formally notified and still fail to comply. In such cases, consumers have the right to demand the performance of the agreement, seek contract cancellation, or claim compensation for losses incurred (Restructuring, 2023). These legal remedies are essential in protecting buyers, especially when large financial investments are at stake.

Additionally, breaches may also involve administrative violations, such as construction without proper permits (e.g., Building Construction Permit or IMB), inconsistency with spatial planning regulations, or non-compliance with technical building standards. These violations can have long-term legal implications for consumers, including threats to property ownership rights and obstacles in registering property titles.

Developer Liability Under Consumer Protection Law

Law No. 8 of 1999 on Consumer Protection provides a strong legal foundation for holding business actors accountable for consumer losses. Article 19 explicitly states that businesses are required to compensate consumers for any damages resulting from the goods or services provided. In the context of property development, this includes defects, discrepancies between promised and delivered specifications, construction failures, and other forms of non-compliance even after the formal agreement has been executed.

Importantly, the developer's responsibility remains applicable post-completion, especially in cases involving latent defects, or hidden issues that only emerge after the consumer has taken possession of the property. The law operates on a strict liability principle, meaning the developer may be held liable regardless of fault or intent. This ensures that consumers have a legal recourse even without proving negligence (Long et al., 2024).

Furthermore, the Consumer Protection Law empowers consumers to seek justice through more accessible mechanisms, such as the Consumer Dispute Settlement Agency (BPSK), which provides a faster and less costly alternative to litigation. This legal framework plays a critical role in bridging the power gap between individual consumers and large scale developers.

Dispute Resolution and Legal Remedies for Consumers

When disputes arise, consumers are provided with several legal avenues. These include litigation through civil courts, or alternative dispute resolution mechanisms such as mediation, arbitration, and proceedings before the BPSK (Yuliani et al., 2022). Many consumers initially opt for non-litigious routes due to their affordability, speed, and procedural simplicity. However, if these methods fail, civil lawsuits may be pursued to enforce contractual obligations, annul agreements, or obtain financial compensation.

In civil claims, consumers may seek remedies such as performance of obligations, cancellation of the contract, refund of payments, and compensation for material and immaterial losses. In more serious cases, where fraudulent behavior is involved such as false advertising, fake project promises, or embezzlement criminal charges may also be applicable. Developers may be prosecuted under Article 378 of the Criminal Code (KUHP) for fraud or other relevant provisions if criminal elements are present.

Beyond formal legal action, consumers can seek assistance from consumer advocacy organizations or government regulatory bodies to file complaints and escalate the issue. Regulatory institutions such as the Financial Services Authority (OJK) may also intervene in cases involving mortgage financing (KPR). These combined legal and institutional mechanisms aim to strengthen consumer protection and enhance accountability among developers in the property sector.

CONCLUSION

The legal relationship between developers and consumers in property transactions is rooted in the principles of civil law, particularly in the framework of contractual obligations. However, in actual practice, consumers often find themselves in a disadvantaged position due to the use of one-sided standard contracts prepared by developers. This imbalance frequently results in legal disputes, especially when developers fail to fulfill their contractual promises ranging from construction delays to structural defects and even project abandonment. Such instances of breach not only cause material losses but also lead to psychological distress and uncertainty for consumers who have invested significant resources.

To address this, Indonesian law provides various protective mechanisms. The Consumer Protection Act (Law No. 8 of 1999) establishes clear responsibilities for business actors, including developers, to compensate for any loss or damage suffered by consumers. It also empowers consumers with specific rights, such as the right to accurate information, safety, and fair treatment. Furthermore, the availability of multiple dispute resolution pathways ranging from court litigation to alternative forums like BPSK reflects the state's commitment to ensuring that consumer grievances are addressed promptly and justly.

Ultimately, developers must recognize that beyond fulfilling their legal obligations, they carry a social responsibility to uphold ethical business practices. Transparent communication, adherence to agreed specifications, and timely delivery of projects are essential to fostering consumer trust and preventing conflicts. At the same time, consumers must be encouraged to understand their rights and seek legal recourse when those rights are violated. A balanced and enforceable legal framework supported by strong regulatory oversight is key to building a healthy property sector that is both accountable and equitable.

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