

Perlindungan hukum terhadap konsumen dalam proses peralihan hak dan balik nama perjanjian pengikatan jual beli : studi perbandingan terhadap tiga developer di Jakarta = Legal protection of the consumer in a transfer of right and re-registration of name process in an agreement to bind a sale and purchase : comparative study towards three developers in Jakarta

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Abstrak

ABSTRAK

Perjanjian Pengikatan Jual Beli dewasa ini dalam proses peralihan hak dan balik nama yang diatur oleh Developer sering menimbulkan permasalahan, dari ketentuan didalam Perjanjian yang berlaku sepihak, biaya-biaya yang tidak memenuhi ketentuan peraturan berlaku, keterlambatan serah terima unit kepada konsumen dan pemungutan biaya yang tidak sesuai dengan yang diatur didalam PPJB yang developer itu sendiri yang membuatnya. Tesis ini membahas tentang Perlindungan hukum terhadap konsumen dalam proses peralihan hak dan balik nama PPJB dengan membandingkan tiga developer tentang proses peralihan hak dan balik nama PPJB di masing-masing developer. Dimana proses peralihan hak tidak sesuai dengan aturan yang berlaku yaitu PP No.4 tahun 1988 dimana peralihan hak harusnya dilakukan didepan PPAT dan di AJB kan terlebih dahulu, sementara untuk proses balik nama dari ketiga developer tersebut tidak memenuhi ketentuan Kemenpera No. 11/KPTS/1994 tentang pedoman Pembuatan Perjanjian Pengikatan Jual beli, bahwa minimal biaya balik nama atau biaya administrasi adalah 1% (satu persen) namun yang dikenakan oleh developer-developer tersebut rata-rata sekitar 2-2.5%, dan dalam bahasa hukum pertanahan, biaya balik nama PPJB tidak relevan dan tidak sah sehingga proses biaya balik nama ini tidak memenuhi ketentuan Pasal 42 PP No. 4 Tahun 1988 tentang Rumah Susun. Dalam hal perlindungan hukum konsumen dalam proses peralihan hak dan balik nama, konsumen banyak dirugikan dengan bentuk PPJB yang berbentuk klausula baku, proses peralihan hak yang tidak didaftarkan ke Badan Pertanahan Nasional dan Biaya Balik Nama yang tidak sesuai dengan aturan yang berlaku, dalam melakukan pembelian produk properti, konsumen harus melakukan pemeriksaan terhadap perjanjian sebelum menandatangani, menjaga Bargaining Positionnya tetap kuat, dan mengetahui hak-haknya dilindungi oleh pemerintah dan lembaga perlindungan konsumen, meminta penjelasan secara rinci dan menuntut haknya apabila merasa dirugikan, dan melengkapi dengan mengetahui lebih lanjut hak-haknya yang diatur dalam Undang-undang perlindungan konsumen Nomor 8 Tahun 1999.

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ABSTRACT

Sale and Purchase Agreement today in the transition process and the right to return the name of which is governed by Developers often cause problems, of the provisions contained in the applicable Agreement unilaterally, costs that do not comply with applicable regulations, delays in handing over the unit to the customer and collection costs regulated in accordance with the PPJB itself developer makes. This thesis discussed about the Legal protection of the customer in a transfer of right and name re-registration process in a PPJB through a comparison of such process in three developers. Whereas the transfer of rights process

were not in accordance with the prevailing law, ie the Government Regulation No.4 of 1988, in which it is regulated that a transfer of right must be carried out in front of Land Officials (PPAT) and first should entered into a Deed of Sale and Purchase (AJB), however the process of name re-registration applied by the said three developers were not in accordance with the Regulation of Minister of Public Housing No.11/KPTS/1994 on the guidance to draft an Agreement to Bind a Sale and Purchase, in which the fee for the name reregistration or administration is minimum 1% (one percent), however the developers charged approximately 2-2,5%, and in the terms of agrarian law, the fee for the name re-registration for PPJB is not relevant and deemed as invalid, and therefore, the name re-registration is not in accordance with Article 42 of the Government Regulation No.4 of 1988 on Flat Housing. In regards to the legal protection of the customer in a transfer of right and name re-registration process, the customer are in a disadvantaged position due to the standard PPJB clause, transfer of right which is not registered to the National Land Office, and the Cost for Name Re-registration which are not in accordance with the prevailing laws, when purchasing a property, a customer should first examine the agreement before he/she signed it, to maintain his/her bargaining position and to understand that his/her right is protected by the government and the customer protection institution, to request further details and to claim if his/her right is infringed, and to complete it by becoming aware of his/her rights which is governed under the consumer protection Law No.8 of 1999.