

Tinjauan yuridis kewajiban serah terima unit satuan rumah susun dalam perjanjian pengikatan jual beli terhadap putusan pailit pengembang (studi kasus putusan MA no. 236/K/PDT.SUS/2010) = Overview the obligation handover unit of apartment in the sale and purchase agreement against verdict developer on bankruptcy (study case no. 236/K/PDT.SUS/2010)

Tyas Setyaningrum, author

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Abstrak

[Tesis ini membahas mengenai kewajiban serah terima unit satuan rumah susun yang dikategorikan sebagai utang menurut Undang-Undang Nomor 37 tahun 2004 dan upaya yang dilakukan pembeli terhadap tanggung jawab hukum pengembang yang telah dipailitkan terhadap pemenuhan serah terima unit satuan rumah susun. Tesis ini merupakan penelitian yuridis-normatif dengan tipologi penelitian deskriptif-analitis yang menggunakan data sekunder. Bahwa penyerahan satuan unit merupakan salah satu kewajiban dari pengembang dan keterlambatan penyerahan merupakan salah bentuk wanprestasi sehingga mewajibkan PT. PPS (dalam pailit) membayar pembatalan dan denda keterlambatan kepada Pihak Pembeli. Pembatalan dan denda keterlambatan tersebut masuk ke dalam pengertian Utang dalam secara luas sebagaimana yang dimaksud dalam Pasal 1 angka (6) Undang-Undang Kepailitan dan upaya hukum pembeli terhadap tanggung jawab hukum pengembang atas pemenuhan serah terima unit tersebut adalah dengan mengajukan gugatan pailit yang telah dikabulkan oleh Pengadilan Niaga No. 073/Pailit/2009/PN/NIAGA.JKT.PST dan dikuatkan dengan putusan Mahkamah Agung No. 236/k/Pdt.Sus/2010. Proses penyelesaian selanjutnya diserahkan kepada Tim Kurator. Menurut kesepakatan para kreditor dan berdasarkan Pasal 185 (3) Undang-Undang Kepailitan, Hakim Pengawas memberikan izin untuk melanjutkan pembangunan apartemen yang pailit tersebut.;

This thesis discusses the obligation handover unit apartment were categorized as debt according to Law No. 37 of 2004 and the efforts made by the buyer to the developer legal responsibility which units have been bankrupte for compliance with the handover unit apartment. This thesis is a juridical-normative research typology descriptive-analytic study using secondary data. That the delivery unit is one of the developer?s obligations and delay?s delivery is one form of default requiring PT. PPS (on bankruptcy) to pay the cancellation and late penalties to the Purchaser. Cancellation and late penalties that go into debt in a wide sense as referred to in Article 1 paragraph (6) of the Bankruptcy Act and legal action against the buyer's legal responsibility for compliance with the handover of the developer of the unit is to file for bankruptcy which has been granted by the Commercial Court No. 073/Pailit/2009/PN/NIAGA.JKT.PST and confirmed by the Supreme Court decision No. 236/K/ Pdt.Sus/2010. Completion of the process will be transferred to Team Curator. According to the agreement of the creditors and under Article 185 (3) of the Bankruptcy Act, Supervisory Judge gives permission to resume the construction of apartments insolvent.;

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