

Settlement of Breach of Contract in Boarding Room Lease Agreements

Evira Maya Prahastika¹, Diah Aju Wusnuwardhani², and Ariyanti³.

^{1, 2, 3} Faculty of Law, University of Merdeka Malang, Indonesia.

Article history:

Received 2024-12-20

Revised 2025-02-16

Accepted 2025-04-01

Keywords:

Agreement; Lease; Default

DOI:

doi.org/10.26905/idjch.v16i1.15473

Corresponding Author:

Ariyanti

E-mail: ariyanti.ft@gmail.com

Abstract: Leasing is a process in which the owner lends goods to another person in exchange for compensation, while the party using the goods must pay rent. Problems in lease agreements often arise when one party fails to fulfill its obligations according to the agreed-upon contract. Failure to fulfill these obligations can be caused by negligence, intent, or events beyond the control of each party. In Tlogomas Village, Malang City, there is a problem with the boarding house rental agreement, specifically the tenant's default, including delays and non-compliance with payment. This study employs an empirical legal method, utilizing interviews, observations, and documentation with 121 respondents, including village employees, boarding house owners, and tenants. The results of the study indicate that there are two forms of rental agreements, oral and written, but boarding house owners prefer oral agreements. When a default occurs, the owner usually gives a warning to the tenant. Oral agreements are more susceptible to default, often due to the tenant's negligence.

1. Introduction

The need for housing increases in tandem with population growth, which continues to rise every year. However, due to the increasingly limited land area and the fact that some groups of people cannot afford to build or buy a house, this presents an opportunity for boarding house business owners to rent out their rooms. Generally, people with middle economic status tend to choose to live in boarding houses because the costs are more affordable. This difference in choice of residence affects the application of the law for the two categories.¹ By entering into a rental agreement, tenants can reside in boarding rooms. The term 'legal act' refers to relationships regulated by law, which consist of rights and obligations that have been determined by law.²

¹ Muhammad Adib. "Penyelesaian wanprestasi dalam perjanjian sewa menyewa kamar kos di Kecamatan Kota Baru Kota Jambi", (Skripsi, Universitas Batanghari Jambi). Universitas Batanghari Jambi Repository. <http://repository.unbari.ac.id/eprint/3273>, (2024). h.1.

² Syarifah Pasikun, "Upaya Pengelola Kost Terhadap Penyewa Yang Wanprestasi Dalam Perjanjian Pembayaran Sewa Menyewa Kost Putri Yoana Di Sepakat 2 Blok S. No 106 Kelurahan Bansir Darat Pontianak Tenggara", *E-Journal Fatwa Law*, Vol. 2 No. 1, 2019, Faculty of Law, Tanjungpura University, h. 1. <https://jurnal.untan.ac.id/index.php/jfh/article/view/31326>.

The agreement is regulated in Article 1313 of the Civil Code, which states that an agreement is an act by which one or more persons bind themselves to one or more other persons, the valid conditions of which are regulated in Article 1320 of the Civil Code. The application of this standard agreement, from its inception to the present, has sparked controversy regarding both the existence and validity of standard contracts. The Civil Code (KUHPerdata) does not specifically regulate standards.³ Article 1548 of the Civil Code defines rent as an agreement in which one party binds itself to provide another party with the enjoyment of an item for a certain period in exchange for a price agreed upon by the latter. In carrying out the transaction, it cannot be separated from an agreement between the parties. Sometimes, people do not realize the importance of an agreement, so problems often arise due to a person's lack of understanding in making one.⁴

Problems in lease agreements often arise when one party fails to fulfill its obligations according to the agreed-upon contract. Failure to fulfill these obligations can be caused by negligence, intent, or events beyond the control of each party. When one party is unable to fulfill its obligations under the existing agreement, the action can be considered a full breach of contract. In general, a breach of contract occurs when one party fails to fulfill or perform as stipulated in an agreement.⁵

In the concept of a state based on law, such as Indonesia, the existence of written regulations serves as a basis for implementing all existing policies, ensuring that everything is done according to its intended purpose.⁶ Contract law in Indonesia, which is governed by the Civil Code (KUH Perdata), provides the basic framework for all types of contracts, including leases.⁷

As happened in the rental agreement for boarding rooms in the female boarding house on Jalan Tlogo Indah Gang 2 Number 57 and the female boarding house on Jalan Tlogo Suryo Number 21 RT 01/ RW 02, Tlogomas Village, Lowokwaru District, Malang City, some tenants did not pay the rent on time according to the agreed deadline, tenants did not pay the rent as they should have and even some tenants did not pay the boarding room rental price for more than one month. As explained, the researcher is interested in researching the "Resolution of Default on Boarding Room Rental Agreements between Boarding House Owners and Tenants in Tlogomas Village, Malang City." Based on the background that has been stated, the problems in this study are: 1) What is the form of the boarding room rental agreement made in Tlogomas Village, Malang City?; 2) What are the efforts to resolve a default on the boarding room rental agreement between the boarding house owner and the tenant in Tlogomas Village, Malang City?

2. Method

This study employs empirical legal research to obtain accurate data from relevant informants by studying or describing the phenomena in depth. This study employs three types of approaches:

³ R. M. Panggabean, "Keabsahan Perjanjian dengan Klausul Baku." *Jurnal Hukum IUS QUIA IUSTUM*, 17(4), (2010). 651-667. <https://doi.org/10.20885/iustum.vol17.iss4.art8>, hlm. 2.

⁴ R. Gumanti, Syarat Sahnya Perjanjian (Ditinjau dari KUHPerdata). *Jurnal Pelangi Ilmu*, 5(01). (2012). <https://ejurnal.ung.ac.id/index.php/JPI/article/view/900>.

⁵ Niru Anita Sinaga dan Nurlely Darwis, "Wanprestasi dan Akibatnya dalam Pelaksanaan Perjanjian", *Jurnal Mitra Manajemen*, 2020, hlm. 5.

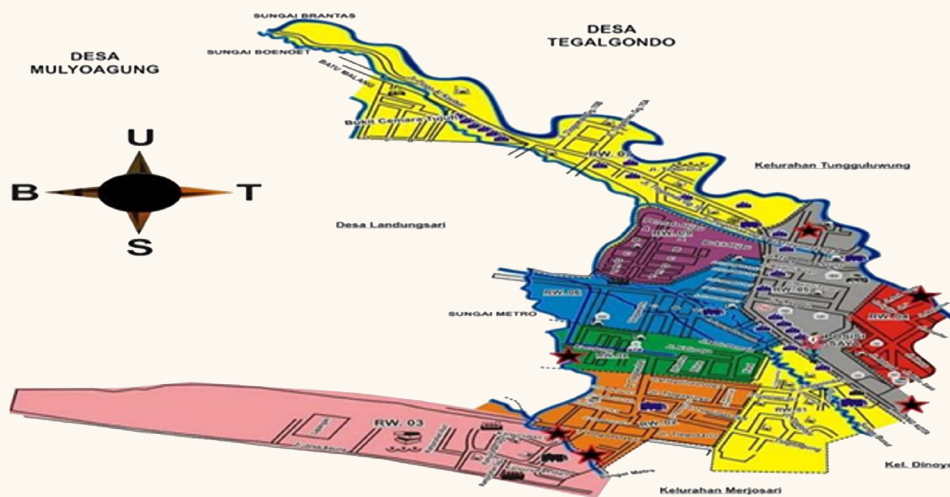
⁶ Putri Rahayu, I." *Analisis Yuridis-Empiris Implementasi Hukum Dalam Pelayanan Terhadap Pasien Di Pukesmas Poncol*" (Doctoral dissertation, Universitas Muhammadiyah Ponorogo). <https://eprints.umpo.ac.id/7097>. (2021). hlm. 5.

⁷ Dito Alif Pratama, Rachmad Saleh Nasution, "Analisis Yuridis Kontrak Sewa Menyewa atau Jual Beli Akun Bisnis E-Commerce Di Indonesia." *Al-Tasyree: Jurnal Bisnis, Keuangan Dan Ekonomi Syariah*, (2025). 16(01), 126-135. <https://doi.org/10.59833/xj40v385>.

sociological, legal, legislative, and descriptive analysis. This study was conducted in Tlogomas Village, Malang City, and involved 121 samples, consisting of 1 village staff member, 30 boarding house owners, and 90 tenants. To collect data, the techniques employed included observation, interviews, and literature reviews. This study aims to investigate the types of agreements made between boarding house owners and tenants that result in default, as well as the settlement efforts undertaken by boarding house owners to tenants who default on boarding house rental agreements in Tlogomas Village, Lowokwaru District, Malang City.

3. Boarding House Profile in Tlogomas Village, Malang City

Tlogomas Village is one of the villages located in the Lowokwaru District, Malang City, East Java Province. This village has a strategic role as the western gateway to Malang City, connecting the city with the Malang Regency area through the main route of Jalan Raya Tlogomas.



Gambar 1. Peta Wilayah
Sumber: Data Kelurahan

Tlogomas Village, Malang City, is an area close to several universities in Malang City, including Tribhuwana Tunggaladewi University, Wira Husada Nusantara Health Polytechnic, and Malang Islamic University. Based on data from Tlogomas Village, out of 14,402 residents, 2,679 are registered as students. The large number of students living in Tlogomas Village has led to the proliferation of boarding houses throughout the Village, with a total of 646 registered in the village office data. When establishing a boarding house, the boarding house owner must confirm with the local RT and RW to obtain a cover letter addressed to the local Village requesting a building permit (IMB).⁸

Each boarding house located throughout Tlogomas Village has its own rules. Which, in general, are prohibited from bringing guests of the opposite sex into the room, must maintain the cleanliness and order of the boarding environment, care for all facilities provided, and pay the rent

⁸ Hasil Wawancara dengan Bapak Sitam, Kepala Seksi Pemerintahan, Ketentraman dan Ketertiban di Kelurahan Tlogomas Kecamatan Lowokwaru Kota Malang, 1 Desember 2023, pukul 09.30 WIB.

on time. Regarding the rental price payment period, it also varies among boarding houses, based on information from boarding house owners in Tlogomas Village, Malang City. According to the respondents, there are several payment periods, including monthly, semi-annual, and annual.⁹

4. Form of Rental Agreement for Boarding House Rooms in Tlogomas Subdistrict, Malang City

The purpose of the lease agreement is to grant the lessee the right of use only. The object being leased can be an asset with ownership rights, business use rights, rights to use the results, use rights, rental rights (including second leases), and building use rights.¹⁰ In a rental agreement, what is important is individual rights rather than property rights, considering that the source of rental rights is as mentioned above.¹¹

Renting a boarding house room is done through several stages, namely: 1) Prospective tenants contact the boarding house owner to express their interest in renting a room. 2) Next, prospective tenants visit the boarding house owner to inspect the condition of the boarding house room and the overall environment. 3) If the prospective tenant is interested, the boarding house owner explains the rules of the boarding house and submits a rental agreement contract letter for this boarding house. 4) Then, if the prospective tenant agrees to the contents of the rental agreement contract letter, they sign the rental agreement contract. 5) After agreeing to and signing the rental agreement contract, the prospective tenant pays the rental price for the agreed-upon period and submits a photocopy of their resident identity card. 6) If the payment has been completed, the prospective tenant is legally considered a tenant and can occupy the boarding house room, with the agreed-upon rental period commencing from the day the rental agreement contract letter is signed.

Other stages do not use written contracts but are only verbal; these stages are: 1. Prospective tenants contact the boarding house owner to express their interest in renting a room. 2. Prospective tenants visit the boarding house to see the location of the boarding house room and the surrounding environment. 3. Next, the boarding house owner explains the regulations, along with the rights and obligations of both the tenant and the boarding house owner, verbally. 4. If the prospective tenant agrees to the regulations along with the rights and obligations of the parties, then the prospective tenant makes a payment as a sign of agreement. 5. Once the prospective tenant has made the payment, they are required to submit a photocopy of their ID card. They will then become a tenant who is legally entitled to live in the boarding house for the agreed-upon rental period commencing from the date of payment.

The results of interviews with respondents showed that the form of boarding house rental agreements in each boarding house in Tlogomas Village, Malang City, is different. Among them are using written rental agreements and verbal rental agreements. The following is a recapitulation of boarding house owner respondents in the Tlogomas Subdistrict, Malang City:

⁹ Hasil Wawancara dengan Para Pemilik Kos di Kelurahan Tlogomas Kecamatan Lowokwaru Kota Malang, 1 Desember 2023, pukul 13.45 WIB.

¹⁰ Gary Hadi, et al. "Penerapan Asas Itikad Baik dalam Perjanjian Sewa-menyewa (Studi terhadap Perjanjian Sewa Menyewa Oulet di Hermes Building Medan)." *USU Law Journal*, Vol. 5, No. 2, 2017. <https://www.neliti.com/publications/164994/penerapan-asas-itikad-baik-dalam-perjanjian-sewa-menyewa-studi-terhadap-perjanji#cite>

¹¹ Marthainis Badul Hay, "Hukum Perdata Material (jilid II)", Bandung. Pradnya Paramita, 1984, h. 91.

Table 1 Respondents' Answers

No	Form of Agreement	Amount	Percentage
1	Written	3	10%
2	Oral	27	90%
	Amount	30	100%

Source: Field data processed in December 2023

Based on the principle of binding contracts (*pacta sunt servanda*), which is one of the basic norms in law and also by the provisions of Article 1338 of the Civil Code, which states “all agreements made legally apply as laws for those who make them,” then the birth of a rental agreement after an agreement is reached by the parties and for the agreement to be binding on the makers. Related to the relationship or obligation that exists between the parties is an obligation to return the rented boarding room, which is the object of the obligation. The tenant must make payments according to the agreed-upon price for the object of the obligation to the boarding house owner. The form of the agreement is classified into two forms, namely, written and oral. A written agreement is a form of agreement that is stated in the form of a written document and agreed upon by both parties. An oral agreement is a form of agreement that is made solely through the words and actions of the parties concerned.¹² Even though a contract is formed when an agreement is reached between the parties, the agreement must still comply with the conditions for a valid agreement as determined by Article 1320 of the Civil Code.¹³ The four requirements in the article are the agreement of those who bind themselves, the capacity to make a contract, a certain thing, and a lawful cause. Based on the stages involved in creating a rental agreement for a boarding house in Tlogomas Village, Malang City, the contract is by the requirements outlined in Article 1320 of the Civil Code. The form of implementation of the rental agreement for a boarding house in Tlogomas Village, Malang City, is by the provisions of the Civil Code, Book III concerning contracts. Based on the principle of freedom of contract, which protects the rights of every individual to act freely regarding the implementation of an agreement, it is determined that everyone has the freedom to choose whether the agreement will be implemented verbally or in writing. The principle of consensualism also states that agreements are generally not made formally but rather sufficient by reaching an agreement from the parties concerned.¹⁴ Therefore, the form of a written agreement or oral agreement that is implemented is a valid agreement because it does not violate the requirements for the validity of the agreement in Article 1320 of the Civil Code; the agreement applies as a law for the parties who make it by the provisions of Article 1338 of the Civil Code, which also stipulates that an agreement must be implemented in good faith. However, in the implementation of the rental agreement at the boarding house in Tlogomas Village, Malang City, there is still a default by the tenant. The boarding house owner, as the respondent, stated that the tenant’s default was in the form of late payment, paying but not properly, or failing to make rental payments for

¹² Fitri Yasni Mulia, “Pelaksanaan Perjanjian Sewa Menyewa Tidak tertulis Yang Berakibat Wanprestasi Pada Kamar Kos Sri Mayang Jaya di Jalan Air Dingin Kecamatan Bukit Raya Kota Pekanbaru”. Disertasi, Fakultas Hukum Universitas Islam Riau, Pekanbaru, 2021, hlm 41-42.

¹³ R. Subekti, “Hukum Perjanjian”, Cetakan Keenam, Jakarta, Intermedia, 1979, h. 17.

¹⁴ M. Muhtarom, “Asas-Asas Hukum Perjanjian: Suatu Landasan Dalam Pembuatan Kontrak”, Publikasi Ilmiah Universitas Muhammadiyah Surakarta, Nomor 1, Mei 2014, hlm. 51.

the boarding room. All forms of default on rental payments made by the tenant result in losses for the boarding house owner.

5. Efforts to Resolve Defaults on Boarding House Rental Agreements between Boarding House Owners and Tenants in Tlogomas Subdistrict, Malang City

A valid and binding agreement meets the terms and conditions established by law. These agreements are legally recognized and have legal implications.¹⁵ The main elements in an agreement are goods and price. In a boarding house rental agreement, certain rights and obligations are outlined in Article 1550 of the Civil Code and Article 1560 of the Civil Code. The contents of Article 1550 of the Civil Code stipulate: "The lessor is obliged by nature and agreement, and without the need for any promise for that: 1. To hand over the rented goods to the lessee; 2. To maintain the rented goods so that they can be used for the intended purpose; 3. To provide the lessee with peaceful enjoyment of the rented goods during the lease." The contents of Article 1560 of the Civil Code are:

The lessee must fulfill two main obligations: 1. To use the rented goods as a good housekeeper, by the purpose given to the goods according to the rental agreement, or if there is no agreement regarding that, according to the purpose that is suspected in connection with the circumstances; 2. To pay the rental price at the times that have been determined." Even though an agreement is made with the hope that its implementation will run smoothly, in reality, the performance of the agreement is not carried out properly, resulting in an action called breach of contract.¹⁶

The word "default" comes from the Dutch language, specifically "wanprestastie," which is composed of the word "wan," meaning "bad," and "prestastie," meaning an obligation or achievement that the debtor must fulfill in a relationship arising from the obligation. Therefore, a default can be interpreted as a sign of poor performance.¹⁷

Laws are formed to maintain the balance of people's lifestyles, creating order and justice that enable the entire community to feel secure. The Civil Code has regulated default in Article 1238 concerning reprimands or warnings to negligent parties and those who do not fulfill what is agreed upon, Article 1243 concerning the obligation to compensate for losses suffered by creditors or other parties due to one of the parties and in Article 1267 concerning termination of the contract agreement along with the payment of existing compensation.

If the debtor does one of the following four things, they are declared in default. These are: 1. Not implementing the contents of the agreement; 2. Implementing the contents of the agreement but not by the agreement; 3. Implementing what has been promised but past the deadline; 4. Doing something that is not mentioned in the agreement.

It is undeniable that one party often fails to meet the requirements for implementing the rental agreement. This also happens in boarding houses in Tlogomas Village, Malang City. In this case, the author asked tenants questions through a questionnaire that inquired, "Have you ever been

¹⁵ S. A. Manangin, P. W. Kaunang, & C. Nender, "Tinjauan Hukum Perdata Pada Perlindungan Hak Konsumen Dalam Kontrak Sewa Menyewa." *Innovative: Journal Of Social Science Research*, 4(3), (2024). 17872-17883. <https://doi.org/10.31004/innovative.v4i3.12670>.

¹⁶ Niru Anita Sinaga dan Nurlely Darwis, "Wanprestasi dan Akibatnya dalam Pelaksanaan Perjanjian", *Jurnal Mitra Manajemen*, 2020, hlm. 44.

¹⁷ Ridwan Khairandy, "Hukum Kontrak Indonesia", Yogyakarta, FH UII Press, 2013, h. 278.

late in making payments or improperly paying rent for a boarding room?" The following is a table of responses from respondents:

Table 2 Respondents on Boarding House Ownership

No	Respondents' Answers	Amount	Percentage
1	Once	85 People	94,44%
2	Never	5 People	5,66%
	Amount	90 People	100%

Source: Field data processed in December 2023

Based on Table 2 above, 94.44% of respondents reported being in breach of the rental agreement for boarding houses in Tlogomas Village, Malang City. Force majeure, negligence, and intentional acts are some of the factors that can cause a breach of contract. One party can suffer losses due to the breach of contract. In Tlogomas Village, Malang City, the actions taken by the boarding house owner were to issue warnings so that the tenant who was in breach of contract would immediately fulfill their obligations, then impose a fine if the tenant still did not fulfill their obligations and emphasize to the tenant not to repeat the breach of contract if they still wanted to continue the rental period in the boarding house. However, when all warnings and fines are ignored and do not have a deterrent effect on the tenant, the boarding house owner will terminate the contract.

There are two primary paths to resolution: litigation and alternative dispute resolution (ADR), also known as non-litigation. Litigation is a process in which each party to a dispute faces each other in court to defend their rights. The result of the litigation dispute resolution process is a decision that determines the winner.¹⁸ Meanwhile, non-litigation dispute resolution aims to avoid litigation by allowing both parties to avoid resentment through consultation, negotiation, mediation, conciliation, or expert assessment.¹⁹

The interview results showed that the parties chose to negotiate as a non-litigation way to resolve the default committed by the tenant. The boarding house owner provided a grace period for the payment deadline, noting that it must still be paid even if it has not been met by the original deadline as a default. The parties chose the non-litigation process because it can be time-consuming and expensive.

6. Conclusion

Based on the description in the discussion, the author concludes that there are two primary forms of agreements: written and oral. Both forms of agreements, both written and oral, are valid agreements as long as the contents of the agreement meet the four valid requirements of an agreement in Article 1320 of the Civil Code. In the rental agreement for boarding rooms in Tlogomas Village, there are still tenants who are in default on rent payments. When the tenant is in default, the boarding house owner issues warnings and gives the tenant time to fulfill their obligations immediately. The parties choose to resolve the default through a non-litigation process, namely negotiation.

¹⁸ Monicke Cinyara, "Akibat Hukum Wanprestasi Atas Perjanjian Sewa Menyewa", *Wajah Hukum*, Volume 7(1), April 2023, h. 72. DOI: <http://dx.doi.org/10.33087/wjh.v7i1.1123>.

¹⁹ Monicke Cinyara, "Akibat Hukum Wanprestasi Atas Perjanjian Sewa Menyewa", n.d. h. 71.

References

- Adib, Muhammad. "Penyelesaian wanprestasi dalam perjanjian sewa menyewa kamar kos di Kecamatan Kota Baru Kota Jambi (Skripsi, Universitas Batanghari Jambi). Universitas Batanghari Jambi Repository. (2024). <http://repository.unbari.ac.id/id/eprint/3273>.
- Cintyara, M. "Akibat Hukum Wanprestasi Atas Perjanjian Sewa Menyewa." *Wajah Hukum*, 7(1), (2023). 66-72. DOI: <http://dx.doi.org/10.33087/wjh.v7i1.1123>.
- Gumanti, R. "Syarat Sahnya Perjanjian (Ditinjau dari KUHPerdara)." *Jurnal Pelangi Ilmu*, 5(01). (2012). <https://ejournal.ung.ac.id/index.php/JPI/article/view/900>.
- Hadi, Gary, et al. "Penerapan Asas Itikad Baik dalam Perjanjian Sewa-menyewa (Studi terhadap Perjanjian Sewa Menyewa Outlet di Hermes Building Medan)." *USU Law Journal*, Vol. 5, No. 2, 2017. <https://www.neliti.com/publications/164994/penerapan-asas-itikad-baik-dalam-perjanjian-sewa-menyewa-studi-terhadap-perjanji#cite>.
- Hay, M. A. "Hukum Perdata Material." (2021).
- Manangin, S. A., Kaunang, P. W., & Nender, C. "Tinjauan Hukum Perdata Pada Perlindungan Hak Konsumen Dalam Kontrak Sewa Menyewa." *Innovative: Journal Of Social Science Research*, 4(3), (2024). 17872-17883. <https://doi.org/10.31004/innovative.v4i3.12670>.
- Muhaimin. "Metode Penelitian Hukum." Mataram UPT Mataram University Press. (2020).
- Mulia, F. Y. "Pelaksanaan Perjanjian Sewa-Menyewa Tidak Tertulis Yang Berakibat Wanprestasi Pada Kamar Kos Sri Mayang Jaya Dijalan Air Dingin Kecamatan Bukit Raya Kota Pekanbaru." *PhD diss., Universitas Islam Riau*. (2021). repository.uir.ac.id.
- Nim, S. P. "Upaya Pengelola Kost Terhadap Penyewa Yang Wanprestasi Dalam Perjanjian Pembayaran Sewa Menyewa Kost Putri Yoana Di Sepakat 2 Blok S. No 106 Kelurahan Bansir Darat Pontianak Tenggara." *Jurnal Fatwa Hukum*, 2(1). <https://jurnal.untan.ac.id/index.php/jfh/article/view/31326>.
- Panggabean, R. M. "Keabsahan Perjanjian dengan Klausul Baku." *Jurnal Hukum Ius Quia Iustum*, 17(4), (2010). 651-667. <https://doi.org/10.20885/iustum.vol17.iss4.art8>.
- Pratama, D. A., & Nasution, R. S. "Analisis Yuridis Kontrak Sewa Menyewa atau Jual Beli Akun Bisnis E-Commerce Di Indonesia." *Al-Tasyree: Jurnal Bisnis, Keuangan dan Ekonomi Syariah*, 16(01), (2024). 126-135. <https://doi.org/10.59833/xj40v385>.
- Putri Rahayu, I. "Analisis Yuridis-Empiris Implementasi Hukum Dalam Pelayanan Terhadap Pasien Di Pukesmas Poncol," (Doctoral dissertation, Universitas Muhammadiyah Ponorogo). (2021). <https://eprints.umpo.ac.id/7097>.
- Ridwan, Khairandy. "Hukum Kontrak Indonesia". Yogyakarta, FH UIIPress. (2013).
- Simanjuntak, P. N. H. "Hukum Perdata Indonesia." Jakarta. Prenada Media Group. (2018).
- Sinaga, N. A., & Darwis, N. "Wanprestasi dan Akibatnya Dalam pelaksanaan perjanjian." *Jurnal Mitra Manajemen*, 7(2). (2020). journal.universitassuryadarma.ac.id.
- Subekti, R. "Hukum Perjanjian". Jakarta. Intermasa. (1979).