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LEGAL PROTECTION FOR CONSUMERS WHOSE CERTIFICATES ARE
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³¹ Consumer Protection Law No. 8 of 1999 is one of several laws and regulations in Indonesia designed to protect consumers. However, this law does not adequately protect the home buyers of Violet Garden, Bekasi. These consumers are faced with losing their home certificates because they have pledged them to a non-mortgage bank (Maybank). In the end, the Central Jakarta Commercial Court ruled the developer bankrupt because of its inability to repay its debts. The curator invites buyers to participate in paying off (repaying) the developer's debt, which amounts to approximately fifty percent of the purchase price. This investigation uses a normative juridical approach, which is a truth-seeking procedure based on the logic of legal studies from a normative perspective. This study analyzes existing secondary legal materials so they can be used as other legal materials. The results of this study suggest that a developer or a party from a bank should protect the rights of consumers and not cause problems that lead to material losses experienced by consumers. Consumers can file lawsuits against the law because the parties responsible for this case are ²⁹ PT Bank Rakyat Indonesia Tbk, PT Bank Tabungan Negara Tbk, and PT Nusuno Karya, and the elements of unlawful acts have been fulfilled. However, there is currently no regulation that specifically regulates how a house can be sold by a developer so that the state can protect consumers.

Keywords – Consumer Protection, Home Certificates, Unlawful Acts

At this time, the house is not only the main need, but currently, the house is also one of the investment instruments with long-term benefits because people have begun to be aware of the investment. Article 28 letter H of the ¹² Constitution of the Republic of Indonesia 1945 states that

1. Every human has the right to live a prosperous life in birth and

mind, to live and have a good and healthy living environment and the right to obtain health services.

2. Every human being gets special conveniences and services to obtain equal opportunities and benefits to achieve equality and justice.
3. Every human being is entitled to social security that enables his development as a whole as a dignified human being.
4. Every human being has the right to have private property rights, and no one must arbitrarily seize those property rights.

This article proves that the state is obliged to facilitate all Indonesians to get the right to a decent life.

Based on data on the website of the Central Statistics Agency of DKI Jakarta, the number of residents in DKI Jakarta from 2016 to 2021 the number of residents increased from the total population in 2016 of 10,277,628 residents and 2021, it rose to 10,609,681 residents, which means that the total population of DKI Jakarta in the period 2016 to 2021 increased by 332,053 residents. The number of residents in DKI Jakarta has not increased significantly. However, currently, the market price of houses and apartments in DKI Jakarta is quite high, so residents of DKI Jakarta choose to live in the coastal areas of DKI Jakarta, one of which is the city of Bekasi.

There is a case that happened to consumers buying housing in Bekasi called Violet Garden housing, located in Kranji, West Java. In this case, almost all residents who buy houses in this housing have not received a house certificate; many have not even done a Deed of Sale and Purchase and only have a Sale and Purchase Binding Agreement, abbreviated as PPJB. This case was first known when Maybank visited residents to carry out house executions. Residents who knew about this were very surprised because none of the residents used Home Ownership Loans (KPR) when purchasing using Maybank. Bank Rakyat Indonesia (BRI) and Bank Tabungan Negara (BTN) are the developers of home

ownership loans (KPR) provided by developers. After being explained by Maybank, it was discovered that it turned out that the developer who built the housing pledged or collateralized the residents' house certificates to Maybank to make additional working capital for the housing developer. After it was discovered that the developer used the residents' house certificates, it turned out that there was a gap at the time of the sale of the house. The bank typically holds the certificate that provides the Home Ownership Credit (KPR) as collateral when a buyer applies for a Home Ownership Loan (KPR). However, in this instance, the developer does not provide the certificate, even though the home developer has not broken up the certificate. There exists a loophole that developers exploit. The developer, through his notary, reasoned that his certificate was being shattered and awaited its disintegration. In the end, the certificate was not held at all by the Home Ownership Credit (KPR) giving bank and had the heart to collateralize the consumer's home certificate to other banks, one of which was Maybank. The developer is PT Nusuno Karya. PT Nusuno Karya was initially sued for Postponement of Debt Payment Obligations (PKPU) by PT Bank Woori Saudara Indonesia 1906 Tbk (SDRA). Finally, the management of PT Nusuno Karya's Postponement of Debt Payment Obligations (PKPU) has established a list of fixed receivables. From the management's records, the developer has 199 creditors with a bill value of IDR 236.27 billion. The details come from one preferred (priority) creditor from taxes worth IDR 52.02 billion, two separatist creditors (with guarantees, namely from PT Bank Woori Saudara Indonesia 1906 Tbk (SDRA) worth IDR 25.60 billion, and PT Bank Maybank Indonesia Tbk (BNII) worth IDR 59.54 billion. After the PKPU ruling, PT Nusuno Karya offered a peace proposal, which can be referred to as Homologation.

On March 23, 2020, PT Maybank Indonesia Tbk, as one of the creditors, applied for cancellation of the peace decision because PT Nusuno Karya should have paid a debt bill of IDR 41,266,385,000, and the payment was divided into five stages. The first tranche is paid Rp 12,500,000,000 no later than 7 days after

the homologation verdict is determined. The second tranche of IDR 4,500,000,000 is paid no later than 60 days after the payment of the first phase. The third phase is 10 billion IDR and must be paid within 120 days of the first phase. The fourth phase is valued at IDR 10,167,000,000 and is due 180 days after the initial phase. The fifth instalment is IDR 4,099,385,000, payable within 240 days. However, PT Maybank Indonesia Tbk only received payments in the first and second phases. Then in the second payment phase, PT Nusuno Karya as the respondent only paid RP 1,000,000,000; this makes the residents' house certificates still held by PT Bank Maybank Indonesia Tbk.

Currently, the curator as the administrator of the bankruptcy estate suggests to the consumers who buy houses in Violet Garden housing to "pay debts" from PT Nusuno Karya with a propositional fee based on the size of the residents' homes. In addition, the land that should have been a social facility and public facility became a house, so it used to be a debate. However, in the end, the community inevitably gave up because the land also became a bankruptcy bundle property and the sale of the land reduced the burden of redeeming residents' house certificates.

Research methods

In this study, researchers used a standard approach to legal research. The purpose of normative legal research is to find the truth by using the logic of legal studies from a normative perspective. Scientific logic in normative legal research is based on the disciplines and operations of normative legal sciences, the science of law whose purpose is the law itself.¹

The purpose of normative research in this study is to evaluate statutory norms relating to consumer protection issues, particularly consumer protection for housing developers. Evaluating these legislative standards will be the basis

²⁸ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, 2008), hlm. 57

for establishing improved consumer protection regulations for home buyers in Indonesia who use the public housing credit payment system.

The approach methods used in this study are:

1. The Statutory Approach (Statue Approach)
2. Case Approach.

6 Research methods include problem analysis, architecture or design methods used to solve problems. Problem analysis describes the problems that exist and is resolved in this study. The design describes how to solve the problem and should be presented as a diagram with a complete 26 explanation. For example, data processing diagrams, from raw data to finished, and hardware design diagrams.

Results and Discussion

A. legal protection for housing consumers whose certificates have not been split by the Developer

The land raised by Violet Garden housing was originally a former factory of the pioneer company, but the land was sold to developer PT Nusuno Karya. 2009 was the beginning when the Developer of violet garden housing made a sale of a house. This case dates back to 2014 when Maybank and residents suddenly visited; residents were informed that most of their house certificates were under Maybank's control. At that time, residents were surprised because their house certificates were there. Maybank explained that developers had used their certificates to Maybank to borrow money as their working capital. However, on July 22, 2020, the Developer was decided bankrupt by the Central Jakarta commercial court when the applicant was PT Maybank Indonesia TBK (Maybank). Therefore, the community filed a lawsuit against the relevant parties.

Consumers of Violet Garden Housing decided to sue 38 PT Bank Republik Indonesia and PT Bank Tabungan Negara, the bank providing the

mortgage facility. Consumers sued using the Class Action method, which consisted of Bedra Nubiashanty (as a representative of group I), Ridwan Maharsi (as a representative of group II), Cecep Rosuludin (as a representative of group III), and Muhammad Awaludin Nur (as a representative of group IV).

On March 9, 2019, Violet Garden Housing Consumers registered a lawsuit letter with the Central Jakarta District Court. This lawsuit is carried out by way of a Class Action, in his lawsuit represented by four groups. The first group represented 13 consumers who made Home Ownership Loans through Bank Rakyat Indonesia with the status OF ALREADY PAID OFF represented by Bedra Nubiashanty. The second group representing 49 consumers who made Home Ownership Loans through Bank Rakyat Indonesia with UNPAID status, were represented by Ridwan Maharsi. The third group representing 5 Consumers who made Home Ownership Loans through the State Savings Bank with the status OF PAID OFF was represented by Cecep Rosul. The fourth group representing 26 consumers who made Home Ownership Loans through the State Savings Bank with UNPAID status, were represented by Muhammad Awaludin Nur.

Consumers have a reason to file a class action lawsuit. Consumers have a commonality of facts or a legal basis, where consumers have common interests (common interest) and common suffering (common grievance). The Consumer Protection Act itself provides for class action lawsuits. Consumers filed a lawsuit at the Central Jakarta District Court because BRI and BTN, as the KPR provider, did not control land and building certificates. In addition, clients fear losing the home they purchased because the Developer, PT Nusuno Karya, did not deliver a certificate to the mortgage-granting bank and instead collateralized the house certificate to PT Bank Internasional Indonesia (Maybank) as working capital. However, the Developer was decided

bankrupt by the commercial court. The bankruptcy decision threatened consumers' homes because it gave PT Bank Internasional Indonesia (Maybank) dependent rights.

In making this decision, the court considered many factors. According to the court, class I and II plaintiffs filed a lawsuit against PT Bank Rakyat Indonesia Tbk. In contrast, class III and IV plaintiffs filed a lawsuit against PT Bank Tabungan Negara. The court concluded that the legal relationship between the plaintiff's PT Bank Rakyat Indonesia and PT Bank Tabungan Negara Tbk is independent and cannot be combined because the two financial institutions are unrelated (legal subjects). Since this was the only litigation, the court ruled that it did not meet the formal criteria and did not comply with the standards of procedural law. This lawsuit should have been filed against the defendants separately, with Bedra Nubiashanty representing 13 consumers who obtained mortgages through Bank Rakyat Indonesia with the status OF ALREADY PAID and Ridwan Maharsi representing 49 consumers who obtained mortgages through Bank Rakyat Indonesia with unpaid status. Filed a lawsuit against PT Bank Rakyat Indonesia. The third group, represented by Cecep Rosul, consisted of 5 consumers who obtained mortgages through the State Savings Bank with the status OF ALREADY PAID, and the fourth group, represented by Muhammad Awaludin Nur, consisted of 26 consumers who obtained mortgages through the State Savings Bank with the status OF UNPAID. Both groups have filed a lawsuit against PT Bank Tabungan Negara. Based on this, the court issued the following judgment:

7 *Dalam Eksepsi:*

menyatakan eksepsi dari tergugat I, tergugat II, Tergugat III dan turut tergugat IV tidak dapat diterima

Dalam pokok perkara:

1. Menyatakan gugatam dari para penggugat tidak dapat diterima;
2. Menghukum kepada para penggugat untuk membayar biaya yang timbul dalam perkara ini sejumlah Rp 4.525.000 (empat juta lima ratus dua puluh lima rupiah)

Legal protection is of great importance and should be provided to legal subjects as an instrument of prevention and coercion, both in written and verbal form. Several types of legal protection can be provided, including regulations that provide protection and measures that protect consumers. All these goals seek to avoid customer complaints, conflicts and subsequent losses.

Efforts to maintain the dignity and dignity of customers must be supported by increasing awareness, knowledge, concern, independence, and the ability of consumers to defend themselves, as well as fostering an attitude of responsibility among corporate actors. In Indonesia, the legal basis for a consumer protection application is:

1. According to the Consumer Protection Law Number 8 of 1999 concerning Consumer Protection of the Republic of Indonesia, consumer rights include the right to comfort, security, and safety in consuming goods and/or services, as well as the right to obtain these goods and/or services in accordance with the exchange rate and the conditions and guarantees promised; the right to be treated or served correctly and honestly and without discrimination; the right to receive compensation; and the right to return defective goods.
2. Law No. 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition, namely concerning:
 - a. Monopoly controls the production and/or marketing of commodities and/or the use of certain services by one or more commercial actors.
 - b. The practice of monopoly is the centralization of economic power by one or more business actors, which results in the control of the production and/or marketing of certain products and/or services, thus causing unfair business competition and potentially harming the public interest.
 - c. The centralization of monopoly power is the actual control of the

market by one or more commercial players, which allows them to decide the price of products and/or services.

3. PP No.58 of 2001 concerning Guidance on Supervision and Implementation of Consumer Protection.
4. Circular letter of the Director General of Domestic Trade No. 235/DJPDN/VII/2001 concerning Handling of Consumer Complaints addressed to all indag Pro/Kab offices.
5. Circular Letter of the Director General of Domestic Trade No. 795/DJPDN/SE/12/2005 concerning Guidelines for Consumer Complaints Services.

Consumer protection has not been specifically controlled in purchasing and selling land, houses, etc., according to current legislation and as described above. The existing rules regulate only consumer protection in general. In this regard, Law Number 8 of 1999 concerning Consumer Protection provides a fairly comprehensive understanding of consumer protection, namely all efforts to maintain legal clarity to protect consumers. However, legal protections for customers in ordinary home sales and purchase agreements with developers are often inadequate. Protection can be spelt out and clarified in the contract, but one of the main factors consumers are downside is low awareness of their rights. This is mainly due to the lack of consumer awareness and the low level of education of existing consumers.

In addition, if the consumer rejects the present agreement, the sale and purchase cannot be finalized because there is no agreement between the parties. As a result, this reveals that Indonesian consumer protection legislation is still inadequate. Therefore, it is very important to create Home Sale and Purchase Binding Agreement Guidelines that provide a sense of security and comfort to buyers and sellers of homes so that the interests of consumers and sellers can be protected in the future.² PPJB is necessary to

¹⁹ Nita Dyah Ayuningtyas, "Akibat Hukum terhadap Pembatalan Akta Pengikatan Jual Beli tanah", Naskah Publikasi Universitas Muhammadiyah Surakarta, Journal Vol. 2 No.5, Juli 2015, hlm. 3

create a legal relationship between buyers and sellers in the situation that the author is studying. Buying and selling a house is a legal procedure related to homeownership. PPJB is an agreement whose implementation occurred for the first time, and this preliminary agreement often violates consumer rights. It is not implemented by laws and regulations, especially Law Number 8 of 1999 concerning Consumer Protection (UUPK).³⁶ This ruling lacks legal protection for violet housing consumers (buyers), resulting in violet housing consumers experiencing material losses. The judge should be able to see the objective good faith of the consumers of violet housing in the form of the performance of obligations as stated in the agreement in the Supreme Court Jurisprudence No 120K/SIP/1957. In its ruling, the panel of judges put forward the formal aspect alone without considering the material aspect. The tribunal contained in the evidence of ownership of land and buildings rather than rechtsvinding one of them was to measure the good faith and material losses suffered by Violet Garden Housing as a consumer.

The panel of judges, in its decision, has not provided justice to consumers of Violet Garden Housing as consumers by not listing as a legal factor the principles of consumer protection based on Law Number 8 of 1999 concerning Consumer Protection and the good faith of buyers (legal reasoning). This ruling only tests the legal certainty of the subject of the dispute without considering the order of circumstances leading to the dispute that caused violet garden housing to suffer losses. Article 19 of the UUPK provides preventive legal protection that guarantees the provision of compensation to buyers who suffer losses due to the actions of business actors (landowners and developers). In solving problems through the court system, the judge functions and plays a role in conducting the trial. In addition, the court must search for and identify objective or material laws that will be used

¹³ Novalia Arnita Simamora, Itikad Baik dalam Perjanjian Pendahuluan (Voor Overeenkomst) Pada Perjanjian Pengikatan Jual Beli Rumah ", USU Law Journal, Vol.3. No.3, November 2015. Hlm. 91

to determine the dispute between the parties.⁴

⁴ Article 4 of the Consumer Protection Law regulates consumer rights when buying the first house: the right to comfort, security, and safety in consuming products and/or services; and the right to choose items. Legal protection for Violet Garden home buyers whose certificates have not been segregated. Consumers of Violet Garden homes and/or services are given legal protection when the certificate has not been split. They can get products and/or services based on the exchange rate, ² conditions, and guarantees. The third is the right to accurate, clear, and honest information about the condition and guarantee of goods and/or services. Fourth, the right to have opinions and complaints about the goods and/or services used heard. Fifth is the right to proper advocacy and consumer protection. Sixth is the right to coaching and consumer education. Seventh is the right to be treated or served correctly, honestly, and without discrimination. Eighth is the right to ² be treated or served honestly, honestly, and without discrimination. ²⁵ Judging from article 4 ²⁰ of the Constitutional Protection Law in letter C, a developer must provide true, clear and honest information about the goods that the Developer sells, housing. Consumers of violet housing are completely unaware that at the time of the house sale, the first time, the state of the house certificate had not been broken down. Also, the banks that gave out mortgages, in this case Bank Negara Indonesia and the State Savings Bank, did not tell buyers of violet garden homes who used the bank's mortgage services that they did not own the dependant rights (Building Use Rights) of the loan. Neither the mortgage-granting banks nor the banks from whom the residences were purchased had Dependent Rights.

Judges should make their decisions based on the Consumer Protection

¹⁴ M.Yahya Harahap, Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan, Sinar Grafika, Jakarta, 2005, hlm.820.

Law and the principle of good faith to protect the rights of consumers who have been hurt in this case. This is because the goal of UUPK is to give the Indonesian people hope by guaranteeing compensation for losses that happen when people buy or sell goods or services. UUPK provides legal certainty for consumers, and consumer protection does not harm producers. However, due to the poor position of consumers, the government sought to offer protection through appropriate laws and regulations and supervised the implementation of such laws. Many parties are involved. The UUPK says that consumers have the right to protect their rights and interests, which they should have had in the first place. In this case, that means getting a certificate of property ownership. Even when the buyer has paid in full for the property, the contract between him and the Developer provides no guarantees about the house or his legal rights.

B. Legal liability for developers who collateralize the certificate of a resident's home to the bank

One civil case requires a legal relationship, both contractual and non-contractual (non-contractual) legal relations. The legal relationship resulting from an agreement requires that the parties from the outset want a certain legal outcome, and the law guarantees that it will happen. Conversely, in non-contractual legal relations, the legal implications are determined by the law, not by the parties intentions.

In the example studied by the author, the legal relationship¹⁵ between the Developer or Developer and the consumer of the buyer of the residence is based on or derived from a contract (contract). So, if the deed or achievement does not match what was promised, it is a default, also called a default. Nevertheless, in the context of dissecting the case that the author is reviewing, it should be noted that in the author's opinion, what happens, in this case, is not a default despite the binding agreement. However, if the author examines, the Developer bears legal responsibility for the torts committed by him. Violet

Garden housing is an emerging case in which a customer buys a house from a PT. Nusuno Karya, namely Violet Garden housing, uses 2 (two) kinds of payments: cash with developers/developers and KPR with Bank BRI and BTN. However, some house certificates have not been issued, and the certificates are not owned by the bank that is the mortgage holder. Maybank came to meet the residents of Violet Garden Housing with a certificate stating that PT had pledged the certificate of the Violet Garden Housing house its loan funds. Nusuno Karya and PT. Nusuno Karya cannot make payment. The author did not talk about default because the Developer gave a certificate that was supposed to be given to the bank that guaranteed each consumer's mortgage so that the consumer could get the certificate when the mortgage was paid off. Instead, the Developer gave the certificate to the bank. If the behaviour involves not showing the certificate to a customer who has paid in full, it is acceptable to call it the default. However, if the deed does not hand over the certificate to the party supposed to receive it as collateral, it is illegal and can be prosecuted as fraud and embezzlement. Indeed, as Satrio argues, discussing lawlessness makes no sense if we do not see it in the context of a constant fight in law, that is, a tug of war between the two poles of the law, that is, the individual and society. This tug of war sometimes takes the form of a conflict between fairness and legal certainty or subjective rights and objective ³⁹ law.

Based on the previous explanation, it is clear that the Developer, in this case, has committed an unlawful act because it meets the following criteria:

- a. This element highlights the conduct of a person or organization that is believed to violate the legal statutes of the associated society. Since 1919, acts opposed to ¹ propriety, prudence, and decency in the relationship of fellow citizens with the goods of others have been included in the "legal" sense. Therefore, it can

be inferred that illegal acts are founded on written legal norms and unwritten legal principles that exist within society, such as the principle of appropriateness or decency. The actions of developers who collateralize consumer certificates are unlawful.⁵

- b. There is an error; According to the civil law expert Rutten, any result of a criminal act cannot be held accountable if there is no element of guilt. Elements of error can be divided into two categories: intentional errors and errors caused by carelessness or negligence. Both willful and reckless misconduct have the same legal consequences under civil law. Because, according to Article 1365 of the Civil Code, intentional acts and carelessness or negligence have the same legal consequences, the perpetrator is still responsible for compensation for losses arising from his unlawful acts. When it comes to pawning certificates belonging to bookers, violet garden buyers certainly have a purpose because the guarantee of the deed involves the signature and many administrative procedures that the deed maker must perform.
- c. There are disadvantages; In civil law, losses can be separated into two categories: substantial and/or immaterial losses. Material losses are losses that are experienced noticeably. Losses on profits or gains that can be realized in the future are considered immaterial losses. The fulfilment of the immaterial damages claim is left to the judge. It is impossible to estimate the magnitude of the immaterial damages to be awarded since

⁵ Sedyo Prayogo, Penerapan Batas-Batas Wanprestasi dan Perbuatan Melawan Hukum Dalam Perjanjian, Jurnal Pembaharuan Hukum Volume 3-Nomor 2, Mei 2016, hlm. 284

the benchmark¹ is left to the subjectivity of the deciding judge. The situation studied by the author involves tangible and immaterial losses. Potential material losses in the form of distortion Due to the Developer's bankruptcy, the bank has confiscated the consumer's home certificate. Even with the potential overcrowding of homes, the immaterial loss of time, money, and energy due to handling this case is a problem in itself. A large amount of temporary workforce was delegated to deal with this matter.

- d. ¹ There is a causal relationship between loss and deed. The purpose of teaching causality in civil law is to explore the causal relationship between unlawful acts and the resulting losses to hold the perpetrator accountable. Before holding accountable, it is very important to establish a causal relationship between the perpetrator and the victim, as this factor emphasizes. This relates to the losses suffered by the victim¹ as a result of unlawful acts committed by the perpetrator. The Developer's move to seek a consumer certificate and subsequent bankruptcy shows confirmation of the causal relationship between the Developer's acts and the customer's losses, the purchaser of the violet garden residence.⁶

Acts contrary to the law (onrechtmatige daad) are fundamental in any discussion of the law of liability or aansprakelijkheidsrecht in Dutch. The term is encountered in both the old BW Book III chapter three and the New Dutch BW IV Book chapter three, the second half containing the phrase aansprakelijkheid. Meanwhile, jurists use the term aansprakelijkheidsrecht to

⁵ Sri Redjeki Slamet, Tuntutan Ganti Rugi Dalam Perbuatan Melawan Hukum: Suatu Perbandingan Dengan Wanprestasi, *Lex Jurnalica*, Volume 10-Nomor 2, Agustus 2013, hlm. 117.

describe legal liability, which is no longer limited to a liability to people and property but has expanded to include product, professional, and risk responsibility for environmental damage. The Civil Code provides that each person is not only liable for losses from his deeds but also for losses from the deeds of the person he bears or for the goods he controls. The nature of unlawful acts is contrary to the perpetrator's legal obligations, violates others' subjective rights, violates the rules of decency (*goede zeden*), or contrary to the principles of "property", accuracy and prudence in social life. Unlawful acts can be classified into two categories based on the legal subjects involved, namely:⁷

- a. Actions directed at oneself, namely if they cause physical (material) or non-physical (immaterial) losses such as injuries or bodily defects caused by the intentionality or carelessness of other parties, according to the law, the party who suffers the loss can seek compensation;
- b. Acts against legal entities are usually the fault of the company's organs, like the board of directors, commissioners, or shareholders' meetings. However, there must be a link between the acts and the organ's job description for the Developer to be held civilly liable and, therefore, liable. The provisions of Articles 1365, 1366 and 1367 of the Civil Code provide a basis for a person to commit liability.

The definition contained in the term liability means that a person who feels he is harmed can sue the other party who caused the loss even though the judge does not necessarily grant his lawsuit. In other words, whether or not it is granted depends on several conditions, among other things, whether

¹⁶ Velliana Tanaya, Rekonstruksi Asas Perbuatan Melawan Hukum dalam Sengketa Konsumen, *Jurnal Ilmu Syariah dan Hukum Asy-Syir'ah* Vol.47 No.1 Tahun 2013

the violated legal norms are aimed at protecting its interests (Schutznormtheorie). Another condition is the presence or absence of mistakes made by the perpetrator. In primitive life, people did not separate between losses caused by carelessness or willful deeds on the one hand and unintentional deeds on the other.

Conclusion

Legal protection is a fundamental thing that needs to be given to legal subjects of a preventive or repressive nature, both written and unwritten. The existing rules regulate only consumer protection in general. Article 4 of the Consumer Protection Law regulates consumer rights when buying the first house: the right to comfort, security, and safety in consuming products and/or services; and the right to select items. Legal protection for Violet Garden home buyers whose certificates have not been segregated. Judging from article 4 of the Constitutional Protection Law in letter C, which requires a developer to provide true, clear and honest information about the goods that the Developer sells, in this case, housing. Consumers of violet housing are completely unaware that at the time of the house sale, the first time, the state of the house certificate had not been broken down. Also, Bank Negara Indonesia and Bank Tabungan Negara did not tell or warn Violet Garden Housing customers who used the bank's mortgage facility that they did not mess with the dependent rights of the credit and that the mortgage-giving bank should hold the Dependent Rights from the purchase of a home from each bank. Judges can find laws through legal sources, including laws, traditions, treaties, jurisprudence, doctrines, and even society's legal ideas. The judge should make the Consumer Protection Law and the principle of good faith the basis for his decision to guarantee the rights of consumers who have been harmed in this case, as the purpose of the UUPK is to provide hope for the Indonesian people, to obtain protection for losses suffered from the transactions of a good and service, UUPK guarantees legal certainty for consumers. Of course, consumer protection does not harm producers. However,

due to the weak position of consumers, the government seeks to protect applicable laws and regulations. The government also supervises the implementation of these laws and regulations by various related parties.

Unlawful acts (onrechtmatige daad) have a central role in any discussion of the liability law, which in Dutch is known as aansprakelijkheidsrecht. The term aansprakelijkheid can be found in both the old BW in Book III, chapter three, and the Dutch New BW Book IV in part two. Meanwhile, the term aansprakelijkheidsrecht is widely used by legal experts to describe the problem of legal liability, which is now not only limited to liability for people and goods but has developed to product liability, professional liability and risk liability for environmental damage. Because the Developer transferred a certificate that should have been handed to the bank that lends each customer a mortgage as collateral so that the consumer might get the certificate when the mortgage is paid off, the author does not place this instance in the context of default. However, on factual conditions, the Developer submits the certificate as collateral to another bank to get a loan.

Bibliography

Book:

Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, 2008)

Shofie, 2000, *Perlindungan Konsumen dan Instrumen-Instrumen Hukumnya*, Citra Aditya Bakti, Bandung

M.Yahya Harahap, *Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, Sinar Grafika, Jakarta, 2005

Journal:

Nita Dyah Ayuningtyas, "Akibat Hukum terhadap Pembatalan Akta Pengikatan Jual Beli tanah", Naskah Publikasi Universitas Muhammadiyah Surakarta, Journal Vol. 2 No.5, Juli 2015.

Novalia Arnita Simamora, (2015), "Itikad Baik dalam Perjanjian Pendahuluan (Voor Overeenkomst) Pada Perjanjian Pengikatan Jual Beli Rumah", USU Law Journal, Vol.3. No.3, November

Sedyo Prayogo, Penerapan Batas-Batas Wanprestasi dan Perbuatan Melawan Hukum Dalam Perjanjian, Jurnal Pembaharuan Hukum, Volume 3-Nomor 2, Mei 2016.

Sri Redjeki Slamet, Tuntutan Ganti Rugi Dalam Perbuatan Melawan Hukum: Suatu Perbandingan Dengan Wanprestasi, Lex Jurnalica, Volume 10-Nomor 2, Agustus 2013.

Velliana Tanaya, Rekonstruksi Asas Perbuatan Melawan Hukum dalam Sengketa Konsumen, Jurnal Ilmu Syariah dan Hukum Asy-Syir'ah Vol.47 No.1 Tahun 2013

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