



Legal protection against unilateral cancellation by consumers in house order agreements

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Abstract

The cancellation of a House Order Letter inevitably carries certain legal consequences. A unilateral cancellation of the house order agreement by the buyer is essentially not considered a breach of contract by either party, since the house order letter is not a binding agreement. The house order letter is typically made before the execution of a Sale and Purchase Binding Agreement (PPJB) before a Notary. The characteristic of a house order letter is that it is a written document used in property transactions, especially for houses, between the buyer and the developer or seller.

Its main function is to demonstrate the buyer's seriousness in purchasing the offered house. However, it is important to understand that the house order letter is not an official sale and purchase agreement. Although it does not yet have the binding legal force like the PPJB or the Deed of Sale and Purchase (AJB) authorized by a notary, the house order letter still carries legal value as an initial document that indicates the intent and preliminary agreement between the buyer and the seller. In essence, the house order letter is not equivalent to a binding Sale and Purchase Binding Agreement (PPJB) for land, and thus cannot be categorized as a conditional engagement.

This can be seen based on the provisions of Article 1253 of the Indonesian Civil Code (KUHPerdata), where the legal effect of a unilateral cancellation of the House Order Letter by the buyer includes the termination of an agreement. When necessary, the parties may release themselves from obligations as stipulated in Articles 1266 and 1267 of the Civil Code. Furthermore, the seller is obliged to return the amount of money already paid by the buyer, after deducting a certain percentage in accordance with Aristotle's theory of distributive justice. The parties may also be subject to penalties, the amount of which is adjusted based on mutual agreement and must be paid either by the buyer to the developer or vice versa, for each day of delay, and is to be paid in full.

Keywords: Legal protection, unilateral cancellation, consumer

Introduction

The rapid advancement of the times has had a direct impact on the increasing public demand for housing. This has led to the growth of various property development companies, or developers, operating in the housing construction sector. These developers act as business actors who offer housing to consumers, either through cash payments or installment systems. In practice, the marketing of housing products by developers is often carried out through an initial booking system, where prospective buyers are required to pay a down payment that can be paid in installments over several months. This down payment is usually formalized in a written document known as the "Order Letter for Land and Building Purchase" (Surat Perintah Pembelian Rumah or SPPR), which serves as proof that the consumer has booked a house. However, in reality, the SPPR often does not provide adequate legal protection for consumers. In fact, the SPPR frequently becomes the basis used by developers to refuse the return of booking fees when a unilateral cancellation is made by the consumer, even though a legally valid sale and purchase transaction has not yet occurred.

The clauses in the SPPR typically state that if the consumer unilaterally cancels the booking, the down payment or booking fee already paid will be forfeited and become the property of the developer. This raises legal issues because such unilateral cancellations are often not accompanied by clauses that impose obligations on the developer, such as returning the down payment or completing the construction on time. In fact, under civil law as stipulated in Article 1338 paragraph (2) of the Indonesian Civil Code (KUHPerdata),

an agreement may only be canceled if there is mutual consent or a legal reason provided by law. This indicates that a unilateral cancellation by one party is not automatically valid and does not release the other party from their obligations.

In many cases, prospective homebuyers have paid large amounts in down payments, but due to various reasons such as financial constraints or delays in construction, they decide to cancel the purchase. When requesting a refund, the developer often refuses, citing the clause in the SPPR that states the down payment will be forfeited in the event of a unilateral cancellation. In some court rulings, consumer lawsuits have been rejected on the grounds that the consumer has agreed to the terms set forth in the SPPR. This situation places the consumer in a weak and vulnerable position, as the SPPR document does not explicitly outline the developer's obligations in the event of default. The SPPR only outlines the rights of the developer and the obligations of the consumer, which contradicts the principles of fairness and legal balance in contractual agreements.

Furthermore, there is ambiguity regarding the legal status of the SPPR itself. The SPPR is not a valid sale and purchase agreement, as it does not fulfill the legal requirements for a sale and purchase transaction as outlined in the Indonesian Civil Code. It is merely a statement of intent or willingness to purchase, and thus does not hold the binding force of a sale and purchase deed. This issue becomes even more complex when developers use the SPPR as a legal basis to declare a booking canceled and to reclaim the land or

building that was reserved, even without returning the money that has already been paid. In practice, consumers are rarely provided with a copy of the SPPR or given adequate time to read and understand the contents of the document, resulting in many disadvantageous clauses going unnoticed at the outset.

This phenomenon certainly creates legal uncertainty and injustice in property transactions. Consumers, who generally have a weaker bargaining position, should receive clear and fair legal protection in every transaction, including in house booking agreements. Therefore, it is crucial to conduct a deeper study on the legal protection available for consumers in the event of unilateral cancellations in house order agreements. This study aims to analyze the existing legal imbalances and provide solutions to prevent one-sided losses suffered by consumers in the future.

Research Method

This legal research employs a normative legal research method, which aims to examine legal norms, principles, and doctrines to answer legal issues. This study evaluates the conformity between legal rules and applicable principles, as well as how individual actions are positioned in relation to existing legal norms.

The approaches used include the statutory approach and the conceptual approach. The statutory approach involves a comprehensive analysis of laws and regulations relevant to the legal issue, such as the legal standing of the *Surat Perintah Pembelian Rumah (SPPR)* in the context of sale and purchase agreements. Meanwhile, the conceptual approach examines legal doctrines and theories to deepen the conceptual understanding of the issue being studied.

Legal sources are divided into three categories: primary legal materials, such as the 1945 Constitution, the Indonesian Civil Code, the Consumer Protection Law, the Building Law, and other housing-related regulations; secondary legal materials, including books, journals, legal papers, and articles; and tertiary legal materials, such as legal encyclopedias and dictionaries that help clarify legal terminology.

The collection of legal materials is carried out by identifying, reading, and classifying relevant regulations and literature. Subsequently, legal materials are analyzed by classifying them according to the formulated problem statements and interpreting the principles, norms, and explanations they contain. If conflicting norms are found, the principle of preference will be applied; whereas if the norms support each other, a systematic approach will be used. This analysis aims to find fair and appropriate legal solutions to the issues discussed in this research.

Results and Analysis

Under civil law, the sale and purchase of a house involves mutual agreement between seller and buyer, and the fulfillment of the valid conditions of a contract as stipulated in Article 1320 of the Indonesian Civil Code (KUHPerdata): consent of the parties, legal capacity, a specific subject matter, and lawful cause. The House Purchase Order Letter (*Surat Pemesanan Pembelian Rumah, SPPR*) is a preliminary document commonly used by developers when selling a house to a consumer. It typically details the consumer's identity, house specifications, price, and payment terms, and is often considered merely as a reservation rather than a full purchase agreement.

However, in practice, the SPPR can become legally binding if it satisfies the elements of a contractual agreement under civil law. In such a case, the SPPR shifts from a mere booking letter to preliminary proof of obligation. An SPPR that has been agreed upon by both parties—especially one signed and accompanied by proof of down payment—can be considered a legally binding preliminary agreement (*perjanjian pendahuluan*). This preliminary agreement bears legal force and may create rights and obligations for both parties.

From a consumer protection standpoint, if the developer commits a breach of contract (e.g., failing to build in accordance with the agreement or canceling unilaterally), the affected consumer is entitled to claim damages. This protection is provided under Law No.8 of 1999 on Consumer Protection, which affirms consumers' rights to comfort, security, and safety in consuming goods and/or services. Additionally, the right to receive true, clear, and honest information regarding the condition and warranty of goods and/or services also forms a vital legal basis for consumers. Consequently, the SPPR cannot be regarded as merely an administrative letter; it can serve as evidence of a legal relationship. In cases of dispute, an SPPR bearing both parties' signatures and evidencing an initial transaction may be used as the basis for a civil lawsuit on the grounds of breach of contract. The Supreme Court of Indonesia has, in several rulings, acknowledged the SPPR as part of the contractual documentation if it satisfies the criteria of civil-law agreements.

From a notarial perspective, however, a legally valid house sale and purchase agreement must be formalized in an authentic deed (typically executed as an *Akta Jual Beli* before a Land Deed Official, PPAT). Since the SPPR is not an authentic deed, it serves as a private (underhand) instrument. Nevertheless, it remains admissible as evidence in court, provided its validity is not challenged.

Therefore, it is crucial for consumers to thoroughly understand the contents of the SPPR before signing, as it often contains clauses favoring the developer. An SPPR drafted unilaterally by the developer without room for negotiation by the consumer may be considered a standard form contract. Under the Consumer Protection Law, such standard-form agreements are prohibited if they contain unfair clauses. In practice, there must be stricter oversight on the implementation of SPPRs in housing transactions to prevent juridical imbalance between consumers and developers.

In conclusion, the SPPR can serve as a valid legal basis for an obligation if it fulfills the conditions for a valid contract. In the event of a breach of contract by any party—particularly the developer—the consumer can use the SPPR as a tool to demand compensation, whether through litigation or alternative dispute resolution mechanisms. Thus, the status of the SPPR in house purchase agreements is significant and should not be underestimated, particularly from the perspective of consumer legal protection.

Conclusion

This study concludes that the house booking letter is an initial document in housing sale and purchase transactions, reflecting the parties' intent and preliminary agreement, though it is not legally binding in the same way as a PPJB or AJB. The booking letter is not a conditional obligation under Article 1253 of the Civil Code. If a buyer unilaterally

cancels, the agreement is considered terminated, and the seller must return the funds paid, subject to a certain deduction in accordance with Aristotle's principle of distributive justice as provided under Articles 1266 and 1267 of the Civil Code.

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